

NEW YORK STATE OFFICE FOR THE PREVENTION OF DOMESTIC VIOLENCE

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It's Domestic Violence Awareness Month!

Join us in our effort to turn New York State PURPLE and keep us posted on your plans and activities: http://www.opdv.state.ny.us/public_awareness/campaigns/shinethelight/shinethelight11.html

Reproductive Coercion

Reproductive coercion involves behaviors that a partner uses to maintain power and control in a relationship related to reproductive health.

Examples of reproductive coercion include:

- Deliberate attempts to get a female partner pregnant against her will
- Pressuring a partner to become pregnant
- Controlling the outcomes of a pregnancy
- Forced sex without a condom
- Birth control sabotage (destroying pills, breaking condoms, pulling out vaginal rings, etc.)

Unfortunately, in addition to physical, emotional and sexual abuse, women who are being abused by their intimate partner often report that their partners are trying to get them pregnant against their wishes.

A recent study examined the issue of reproductive coercion in relation to intimate partner violence. To learn more about this study, see the Q&A on page 3.

Did you know...

Firearms were used in 26% of domestic homicides¹ statewide in 2010. In New York City, firearms were used in 12% of the domestic homicides, as opposed to 42% outside of New York City.

This statistic is taken from the New York State Division of Criminal Justice Services' report, *Domestic Homicide in New York State, 2010*, available at: <http://www.criminaljustice.state.ny.us/pio/annualreport/nys-domestic-homicide-report-2010.pdf>

¹ "Domestic homicides" refer to those in which the victim was known to have a domestic relationship with the offender, including intimate partners or another family member, such as a sibling or parent.

From the Executive Director



Hard to believe it's October again – Domestic Violence Awareness Month. Our busiest month, as we all continue our daily work to combat domestic violence, but also conduct awareness-raising activities to identify more allies and engage the public. If you are finding the time to read this – thanks!

We hope that you are participating in the state's Shine the Light campaign this October: Our goal is to turn the entire state purple this year, and we'd love your help. The date we are suggesting that all New Yorkers wear purple to show support is Wednesday, October 19. If you don't have any other purple activities planned, there's still time – check out our [website](#) for some last minute ideas. It's never too late to shine the light on domestic violence.

This Bulletin presents some big picture topics that reflect the scope of the problem of intimate partner violence. One article talks about domestic violence as a human rights issue, by describing a case brought all the way to the Inter-American Commission on Human Rights. We also discuss the topic of reproductive coercion, which reminds us of the essential relationship between domestic violence and sexual assault.

A lot has been happening at ODPV! I invite you to review the [Annual Report](#) and [Domestic Violence Dashboard](#) for 2010. Over the summer, all police trainers in the state were trained on an updated domestic incident model policy, and we will soon be releasing additional training tools for advocates and law enforcement.

We at OPDV wish you the very best for the upcoming holidays, and as always, invite you to reach out to let us know what more we can do to support you in your work.

Amy Barasch
Executive Director

Domestic Violence is a Human Rights Violation

Farrah Elchahal, Rachel Oostendorp, and Caroline Bettinger-López, students and director of Miami Law Human Rights Clinic

Eleven years ago, Jessica Lenahan's three daughters were kidnapped and murdered after she repeatedly requested that the Colorado police enforce a restraining order she held against her estranged husband. After these tragic deaths, Ms. Lenahan (then Gonzales) filed a lawsuit against the police for failing to enforce the order, but in June 2005, the U.S. Supreme Court ruled that she had no constitutional right to police response, let alone enforcement of her restraining order.¹

Unfortunately, Ms. Lenahan's case is not unique and it is a tragic example of the United States' inadequate response to one of the most dangerous and common forms of gender-based violence in this country.² An estimated 1.3 million women are victims of physical assault by an intimate partner each year.³ Domestic violence is such a serious issue that the United Nations Special Rapporteur on Violence Against Women, Rashida Manjoo, conducted a fact-finding mission to the U.S. to assess the state of violence against women here. In her report, Ms. Manjoo described domestic violence as a "pervasive human rights violation that continues to affect women across the United States."⁴

Despite the severity of domestic violence, it has traditionally been viewed as a private matter. In recent decades, public attitudes have begun to shift, resulting in legislative developments such as the advent of restraining orders and mandatory arrest laws, designed to improve police response to domestic violence.⁵ However, these remedies have fallen short of fulfilling victims' needs and U.S. Supreme Court decisions have further diminished the efficacy of the remedies available.⁶

Human Rights Decision

Following the disappointing decision in *Castle Rock*, Ms. Lenahan filed a petition against the United States in December 2005 before the Inter-American Commission on Human Rights (IACHR),⁷ an autonomous organ of the Organization of American States (OAS) created "to promote the observance and defense of human rights" in OAS member states, including the United States.⁸ The IACHR provides a forum for victims and advocates to address systemic human rights violations across the Americas.

Ms. Lenahan's case marks the first international human rights case brought by a domestic violence survivor against the United States. The case contextualized Ms. Lenahan's story within a larger problem of non-response to domestic violence by certain members of law enforcement.⁹ The IACHR's ruling found several violations of fundamental rights, including the rights to life and freedom from inhumane treatment, equal protection/non-discrimination, special protections for women and children, and judicial protection.¹⁰

Ms. Lenahan's experience with the IACHR was her first opportunity to tell her story publicly before an official body since her tragedy. On a broader level, her case serves as a potential avenue to spur coalition and movement building and create political pressure to change social and legal norms with regard to domestic violence. In contrast to U.S. standards, international human rights law has increasingly recognized these seemingly-private acts as public violations, emphasizing law enforcement's affirmative obligation to exercise due diligence—to promote and protect human rights and to investigate, punish, and compensate human rights violations—in cases involving violence against women.¹¹ *Lenahan v. United States* presents the most recent development in this line of cases and will be the first time the IACHR outlines positive state obligations in the context of domestic violence.¹² This decision and Ms. Manjoo's report have begun to pave the way for reframing domestic violence as a human rights violation in the United States.

Looking Ahead: The Commission's Recommendations

State executive level agencies and law enforcement can look to the IACHR decision to further develop trainings and procedures regarding an appropriate police response to domestic violence to continue to "bring human rights home" and provide victims with the protections they desperately need.

1 Town of Castle Rock v. Jessica Gonzales, 545 U.S. 748 (2005).

2 See, e.g., Nat'l Ctr. for Injury Prevention & Control, Ctr. for Disease Control & Prevention, Costs of Intimate Partner Violence Against Women in the United States 1-4 (2003), available at http://www.cdc.gov/ncipc/pub-res/ipv_cost/IPvBook-Final-Feb18.pdf.

3 Id. at 15, 21, 18, 24 (2003). (estimating 5.3 million intimate partner victimizations against women ages 18 and older in the United States each year).

4 U.N. Special Rapporteur on Violence Against Women, Its Causes and Consequences, Report of the Special Rapporteur on Violence Against Women Its Causes and Consequences, Mission to the United States of America, U.N. Doc. A/HRC/17/26/Add.5 (June 1, 2011).

5 Domestic Violence in the United States: A Preliminary Report for Rashida Manjoo, U.N. Special Rapporteur on Violence Against Women 15 (2011) (publication forthcoming).

6 Town of Castle Rock v. Jessica Gonzales, 545 U.S. 748 (2005) (holding that the U.S. Constitution provides no remedy for a state's failure to enforce a restraining order, and thus protect victims of gender-based violence); United States v. Morrison, 529 U.S. 598 (2000) (striking down a portion of the 1994 version of VAWA that authorized a federal civil rights cause of action to remedy domestic violence and holding that Congress did not have the authority to create such a cause of action as part of its power to regulate interstate commerce under the U.S. Constitution or its general police power); DeShaney v. Winnebago Dep't of Soc. Servs., 489 U.S. 189 (1989) (finding that the Due Process Clause of the Fourteenth Amendment does not provide a remedy when state actors fail to take reasonable measures to protect and ensure a citizen's rights against violation by private actors).

7 Jessica Lenahan (Gonzales) v. United States, Case No. 12.626, Inter-Am. Ct. H.R., Report No. 52/07, OEA/Ser.L.V/II.128, doc. 19 (2007).

8 Statute of the Inter-Am. C.H.R., O.A.S. Res. 447 (IX-0/79), art. 1(1), 9th Sess., O.A.S. Official Rec., OEA/Ser.P/IX.0.2/80, vol. 1 at 88 (1979).

9 See e.g. Brief for National Network to End Domestic Violence et al. as Amici Curiae Supporting Respondent, Town of Castle Rock v. Jessica Gonzales, 545 U.S. 748 (2005); See also Brief for The Family Violence Prevention Fund et al. as Amici Curiae Supporting Respondent, Town of Castle Rock v. Jessica Gonzales, 545 U.S. 748 (2005).

10 Jessica Lenahan (Gonzales) v. United States, Case No. 12.626, Inter-Am. Ct. H.R., Report No. 80/11 ¶ 199 (finding several violations of the American Declaration, including rights to life and freedom from inhumane treatment (Article I); equal protection/non-discrimination (Article II); special protections for women and children (Article VII); and judicial protection (Article XVIII)).

11 See, e.g., Gonzalez and Others v. Mexico ("In re Campo Algodonero," or the "Cotton Fields" case), Inter-Am. Ct. H.R. Preliminary Exceptions, Merits, Reparations and Costs. Judgment (Ser. C) No. 205. (Nov. 16, 2009) (holding that a State must hold private actors accountable for acts of violence against women and a failure to do so results in gender discrimination); Opuz v. Turkey, App. No. 33401/02, Eur. Ct. H.R. (June 9, 2009) (finding Turkey in violation of its obligation to protect women from domestic violence and holding, for the first time, that gender-based violence is a form of discrimination under the European Convention on Human Rights).

12 Alma Luz Beltrán y Puga et al., Gender Justice in the Americas: A Transnational Dialogue on Sexuality, Violence, Reproduction, and Human Rights, 65 U. Miami L. Rev. 751, 752 (2011).

Q&A About Reproductive Coercion

This Q&A was conducted with Lisa James, Director of Health, Futures Without Violence (formerly Family Violence Prevention Fund)

Q: Please tell us about the recent study “Pregnancy Coercion, Intimate Partner Violence and Unintended Pregnancy”.

A: After conducting qualitative research on the reproductive coercion with victims of violence, Futures Without Violence staff partnered with researchers from the University of California at Davis School of Medicine to conduct a study on the prevalence of reproductive coercion in patients seeking care in family planning settings. We knew that violence and reproductive coercion increases risk for unintended pregnancy and wanted to test interventions with women to decrease risk for violence and poor health outcomes. The study, funded by the National Institutes of Health, consisted of a cross-sectional survey administered to females ages 16–29 seeking care in five family planning clinics in Northern California between May 2008 and October 2009. Providers were trained on how to ask and respond to violence and reproductive coercion.

Q: What were the major findings of the study?

A: We found that reproductive coercion and birth control sabotage are common among young women utilizing family planning clinics, and in the context of partner violence, are associated with increased risk for unintended pregnancy. Fifty-three percent of respondents reported physical or sexual partner violence, 19% reported experiencing pregnancy coercion and 15% reported birth control sabotage.

Equally important though, we found that providers can do something about this problem. We trained providers to ask directly about reproductive coercion, offer

harm reduction strategies (such as birth control that cannot be interfered with) and provide referrals to domestic violence agencies. Study participants were asked about reproductive coercion and then counseled about harm-reduction strategies – including switching to longer-acting contraceptives and contacting domestic and sexual assault resources.

The women who received this brief intervention (designed collaboratively by the UC Davis School of Medicine with the Harvard School of Public Health; Futures Without Violence; and reproductive health experts) reported a 70% reduction in the pregnancy coercion and were 60% more likely to report ending a relationship because it felt unsafe or unhealthy.

It is important to note, too, that this is not only the case for women seeking care in family planning programs. In a focus survey conducted by the National Domestic Violence Hotline, with Futures Without Violence, more than 3,000 callers responded and 25% reported experiencing reproductive coercion as well. The women surveyed shared quotes such as:

“I better be pregnant, or I’m in trouble with him.”

“He refuses to use a condom. I’ve bought them and he throws them out.”

“He admitted to me and the psychologist that he intentionally got me pregnant to trap me.”

Q: What can this study teach us about enhancing our response to intimate partner violence?

A: There is a strong link between partner violence and unintended pregnancy. This study is important because it identifies a solution that can be implemented relatively easily. We need to build on these results by making this intervention the norm

in health care settings as quickly as possible. We learned from the study that asking directly about reproductive coercion was an effective way to identify victims of abuse and that even a brief intervention, offering a patient education card, alternate birth control and a supported referral to a domestic violence program, can significantly improve health and safety of women. These findings are very encouraging, and suggest that such clinical interventions may be useful in reducing both partner violence and unintended pregnancy.

Q: What resources are available for victims and service providers?

A: Women experiencing violence and reproductive coercion should talk to their provider about birth control that cannot be interfered with and contact a domestic violence service provider to talk about strategies to be safe and healthy.

Survivors of domestic violence may not always recognize reproductive coercion as part of the power and control their partner is exerting over them. By asking the right questions, service providers can help victims identify the problem, connect them to reproductive health providers and provide the support and resources they need.

Futures Without Violence has many resources that can be used in clinical or advocacy settings that discuss the connection between violence and reproductive health and offer solutions and resources to get help. Visit: <http://www.futureswithoutviolence.org/content/features/detail/788/>



Legislative Update

Governor Cuomo signed into law legislation that will help prevent individuals convicted of domestic violence misdemeanors from legally purchasing firearms. Federal law prohibits the sale of firearms to individuals convicted of certain crimes, including misdemeanor crimes of domestic violence. The National Instant Criminal Background Check System (NICS) was created to establish a database for stores to check for such convictions before

selling a firearm to a customer. Differences between New York and federal domestic violence statutes created a gap in the law where the information from those found guilty of domestic violence crimes in New York courts was not being transmitted to NICS. The new law, effective on November 29, 2011, specifies which offenses and what types of relationships meet the federal definition of "misdemeanor crime of domestic violence" and establishes a process for the courts to determine which

convictions should be reported to NICS. Individuals in the NICS database are barred from purchasing all guns, including rifles and shotguns.

In addition to the firearms law, several other bills addressing domestic violence, sexual assault and victim-related issues were signed into law during the 2011 legislative session. For additional information on these laws, see http://www.opdv.state.ny.us/law/summ_year/sum11.html

2010 Domestic Violence Reports

Two important reports for 2010 have recently been released by OPDV: The NYS Domestic Violence Annual Report and The NYS Domestic Violence Dashboard.

The NYS Domestic Violence Annual Report highlights the steps the State took to address domestic violence in 2010, including information on training, services, public awareness, and legislation. The report also details plans for 2011. This is the third Annual Report issued by OPDV, in collaboration with the NYS Domestic Violence Advisory Council. The Council includes representation from 14 State agencies, as well as 9 appointed members who represent a broad cross section of systems from advocates, to civil and criminal attorneys, to judges and legislators. Members contribute information to ensure the most accurate summary of the State's work possible.

The 2010 NYS Domestic Violence Dashboard is the fourth such document released by OPDV and compares data from 2007 through 2010. With four years worth of data, some trends are taking shape, while other numbers continue to raise questions. New data points have been added each year and information from more agencies than ever before is now being collected. The Dashboard has become a useful tool for government agencies to understand where systems are strong and where they need improvement. It has also been useful for local programs and advocates giving them information they can use on the local level.

The reports can be found on our website:

Annual Report: <http://www.opdv.state.ny.us/statistics/reports/dvannual10/dvannualreport10.pdf>

Dashboard: <http://www.opdv.state.ny.us/statistics/nydata/2010/nys2010data.pdf>

Enhancing Victim Advocacy in the Courts



On August 1, 2011, OPDV, the Center for Court Innovation (CCI), and the Third Judicial District, presented a training for domestic violence advocates called "Enhancing Victim Advocacy in the Courts," funded by a grant from the Office of Court Administration. Presenters discussed mental health and substance abuse issues, collaboration between attorneys and advocates, and advocacy

strategies. Those present also participated in "In Her Shoes," an experiential activity that helps develop empathy with the frustrations battered women experience.

Three presentations from the training are available for viewing on the OPDV website as part of a [new advocacy section](#).

- *Mental Health and Substance Abuse Issues.* Sue Parry, Ph.D., of OPDV, builds on In Her Shoes to illustrate the origin of common mental health and substance abuse effects of abuse, and presents strategies for advocating for victims with such issues.
- *Interdisciplinary Collaboration between Attorneys and Social Workers/Advocates* Claire McCue, LCSW and Alicia Simpson, Esq., of Staten Island Legal Services, talk

Shhh...It's a secret...

In just a few weeks, OPDV will be launching an exciting new dating abuse campaign which includes a website and Facebook page, featuring a brand new look, logo and slogan! We can't tell you more just yet, but after we unveil it at a press event later this month, we will send out an e-Alert. Don't get OPDV's monthly e-Alerts? Sign up by sending an e-mail to: opdve-Alert@opdv.state.ny.us. Or just stay tuned to our website for the announcement.

about how interdisciplinary practice in domestic violence cases can mean better representation for clients. They discuss ethical issues that arise for lawyers and social workers working together, and how to conduct a joint first interview with a victim.

- *Domestic Violence Advocacy in Court* Rebecca Thomforde Hauser, of CCI, talks about the differences between Domestic Violence Courts and Integrated Domestic Violence Courts, and the different roles of system-based and community advocates. She gives concrete strategies for educating and empowering victims, and an update on recent legal developments in NYS.

NYS Office for the Prevention of Domestic Violence www.opdv.state.ny.us

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