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COLORADO'S FIRST JUDICIAL DISTRICT: A CONTINUED PUSH TO AIDE DOMESTIC VIOLENCE VICTIMS

Domestic violence is a universal problem in every nation around the globe. From 2003 to 2006, the United Nations Development Fund for Women expended \$4 million in an effort to increase the number of countries with specific laws enforcing prohibitions against domestic violence.¹ Within the three years between 2003 and 2006, the number of countries with laws regarding prohibitions against domestic violence increased from forty-five to eighty-nine.² By 2011, 125 countries outlawed domestic violence.³ Only a few countries drag behind the movement, with Russia being the only country regressing its laws.⁴

The United States is also not immune to the troubles of domestic violence. In 1993, the United Nations implemented a due diligence obligation for all United Nations countries with regard to violence against women and the implementation of laws.⁵ “Under the due diligence obligation, States have a duty to take positive action to prevent and protect women from violence, punish perpetrators of violent acts and compensate victims of violence.”⁶ In 2005, the United States Supreme Court heard *Town of Castle Rock v. Gonzales*.⁷ In this case, the City of Castle Rock, Colorado, was sued for failing to enforce a restraining order, which resulted in the murder of the protected party’s three children as well as the restrained party following a shootout with police.⁸ The Supreme Court held that the protected party and repeated victim of domestic violence had no constitutional right to the enforcement of the restraining order.⁹ Following this holding, the United Nations found that “the State failed to act with due diligence to protect [the victims] from domestic violence, which violated the State’s obligation not to discriminate and to provide for equal protection before the law.”¹⁰ The United Nations further urged the United

1. *More Countries Have Laws Banning Domestic Violence, Says UN Women’s Rights Official*, UN NEWS CTR. (Nov. 22, 2006), <http://www.un.org/apps/news/story.asp?NewsID=20703&Cr=unife>.

2. *Id.*

3. LAURA TURQUET ET AL., PROGRESS OF THE WORLD’S WOMEN: IN PURSUIT OF JUSTICE 24 (Elana Dallas ed., 2011).

4. *See generally* NERSES ISAJANYAN, RUSSIAN FEDERATION: DECRIMINALIZATION OF DOMESTIC VIOLENCE (2017), <https://www.loc.gov/law/help/domestic-violence/russia-decriminalization-domestic-violence.pdf>.

5. Comm’n on Human Rights, Rep. on the Due Diligence Standard as a Tool for the Elimination of Violence Against Women, U.N. Doc. E/CN.4/2006/61 (2006).

6. *Id.*

7. 548 U.S. 748 (2005).

8. *Id.* at 752–54.

9. *Id.* at 768.

10. *Lenahan (Gonzales) v. United States of America*, Case 12.626, Inter-Am. Comm’n. H.R., Report No. 80/11 (2011).

States to “re-evaluate existing mechanisms at federal, state, local and tribal levels for protecting victims and punishing offenders, given that calls for help often do not result in either arrests or successful prosecutions.”¹¹

Four months after these publications, the Center for Disease Control executed a survey in a November 2011 report in an effort to capture more accurate domestic violence statistics, as self-reporting is often more accurate than police records. The report found that one in three women and one in four men “have experienced rape, physical violence, and/or stalking by an intimate partner in their lifetime.”¹² For those who have been abused by an intimate partner, the risk of homicide is greatly increased.¹³ Every year, one in three female homicides are committed by a spouse, ex-spouse, or boyfriend.¹⁴ Additionally, one in twenty male homicides are committed by an intimate partner.¹⁵ To combat these alarming statistics, both the federal government and states have taken legislative measures. Federal legislation in the area began with the Violence Against Women Act in 1994.¹⁶ The Act had two important components. First, the Act allowed for a federal civil remedy for gender-based violence.¹⁷ This provision, however, was deemed unconstitutional by the Supreme Court, as it exceeded congressional powers.¹⁸ The second component that continues to stand prohibits the possession of a firearm by an offender while subject to a domestic violence protection order.¹⁹ In 1996, Congress enacted the Lautenberg Amendment and extended the prohibition of firearm possession to any individual convicted of a misdemeanor domestic violence charge, regardless of the individual’s profession in law enforcement or the military.²⁰ Similarly, many states have passed similar legislation prohibiting firearm ownership by those convicted of domestic violence and those with active protection orders.²¹

Despite these important legislative measures, there still remains a gap between domestic violence incidents and successful prosecutions.²² One of the chief explanations for this disproportion is the difficulty attached to

11. Human Rights Council, Rep. of the Special Rapporteur on Violence against Women and its Causes and Consequences, U.N. Doc. A/HRC/20/16 (2011).

12. MICHELE C. BLACK ET AL., THE NATIONAL INTIMATE PARTNER AND SEXUAL VIOLENCE SURVEY: 2010 SUMMARY REPORT 2 (2011).

13. F. Stephen Bridges, Kimberly M. Tatum & Julie C. Kunselman, *Domestic Violence Statutes and Rates of Intimate Partner and Family Homicide*, 19 CRIM. JUST. POL’Y REV. 117, 118 (2008), <http://citeseerx.ist.psu.edu/viewdoc/download?doi=10.1.1.972.337&rep=rep1&type=pdf>.

14. *Id.*

15. *Id.*

16. *Id.*

17. 42 U.S.C. § 13981 (2000), *declared unconstitutional* by *United States v. Morrison*, 529 U.S. 598 (2000).

18. *Morrison*, 529 U.S. at 602.

19. Bridges, Tatum & Kunselman, *supra* note 13, at 118–119.

20. *Id.* at 119. *See also* 18 U.S.C. § 922(d)(9) (2017).

21. Bridges, Tatum & Kunselman, *supra* note 13, at 119.

22. Human Rights Council, Rep. of the Special Rapporteur on Violence against Women and its Causes and Consequences, U.N. Doc. A/HRC/20/16 (2011).

requiring the abused to testify.²³ The struggle stems from the intimate relationship between the victim and the offender.²⁴ Victims often “recant, refuse to testify, or simply fail to appear.”²⁵ Reasons vary and could include the victim’s continued love for the offender, embarrassment and humiliation, fear of losing children or sources of income, or distrust in the judicial system and the fear of retaliation if the offender is not successfully prosecuted.²⁶

The considerations and fears of victims are the greatest concerns that face domestic violence prosecutions. The City of Denver was the first Colorado community to tackle this problem with the construction of the Rose Andom Center.²⁷ The center’s mission is to “[improve] the lives of domestic violence victims by facilitating better access to services and staff of community organizations and government agencies in a single, safe location.”²⁸ Beginning in 2015, in order to better serve victims and ease their concerns, Colorado’s First Judicial District Attorney’s Office followed the Rose Andom Center’s lead and began the push to aid domestic violence victims after receiving a grant from the Department of Justice’s Office on Violence Against Women.²⁹ The \$400,000 in funding that was awarded was used to begin exploring the possibility of building and staffing a “Family Justice Center” for domestic violence victims within the First Judicial District.³⁰ The decision to seek funding to build a center follows a national movement to centralize services required by victims. The Family Justice Center Alliance is the most predominate organization advocating for centralized services, having helped communities from Washington to Louisiana.³¹ Currently, there is no center in the First Judicial District, although efforts continue. Thus, victims are required to seek services in many different locations, making the process daunting, expensive, and time-consuming. These obstacles can lead a victim to distrust the justice system. The First Judicial District Attorney’s website summarizes a victim’s struggle stating, “While many services are currently available for victims in our community, access to those

23. Aviva Orenstein, *Sex. Threats, and Absent Victims: The Lessons of Regina v. Bedingfield for Modern Confrontation and Domestic Violence Cases*, 79 *FORDHAM L. REV.* 115, 144 (2010).

24. *Id.*

25. *Id.*

26. *Id.*

27. *Mission, Vision, and History*, ROSE ANDOM CTR., <http://roseandomcenter.org/history-mission-vision/> (last visited Dec. 29, 2017).

28. *Id.*

29. *Attorney General Loretta E. Lynch Announces \$2.7 Million in Grants to Strengthen the Justice System’s Response to Sexual Assault*, U.S. DEP’T OF JUST. (Dec. 15, 2015), <https://www.justice.gov/opa/pr/attorney-general-loretta-e-lynch-announces-27-million-grants-strengthen-justice-systems>.

30. Kelsey Stein, *Jefferson County Taking Steps to Improve How Sexual Assault Cases Are Handled*, FAM. JUST. CTR. ALLIANCE (Dec. 18, 2015, 1:36 PM), <https://www.familyjusticecenter.org/jefferson-county-taking-steps-to-improve-how-sexual-assault-cases-are-handled/>.

31. *Affiliated Centers*, FAM. JUST. CTR. ALLIANCE, <https://www.familyjusticecenter.org/affiliated-centers/> (last visited Dec. 29, 2017).

services may require travel to different offices or searching websites. Issues with child care and transportation to these appointments may result in victims making a decision not to seek out the help they need.”³² Because of this often daunting task, many victims return to their abusers, as their need for “financial support, housing, and child care” are too great.³³ A Family Justice Center takes all the services required by victims and puts them in one location so victims are only required to fill out paperwork once and tell their story once while being greeted with all the services they might require.³⁴ This not only ensures that the victim is taken care of in the most effective and compassionate manner following traumatic events but also promotes victim cooperation in judicial proceedings.

The First Judicial District is getting closer and closer to their goal with over fifty partners.³⁵ These includes law enforcement agencies, governmental service providers, medical service providers, non-profits, and more.³⁶ The ultimate goal of the First Judicial District’s Family Justice Center is to “reduce the occurrence of family violence.”³⁷ And when we “reduce the occurrence of family violence, we also enhance public safety, help reduce violent crime and homicide rates, unite communities in support of crime victims, save tax dollars, and increase effectiveness of timely services.”³⁸

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32. *Family Justice Center*, DISTRICT ATT’Y JEFFERSON AND GILPIN COUNTIES, <https://www.jeffco.us/2187/Family-Justice-Center> (last visited Dec. 29, 2017).

33. *Id.*

34. *Id.*

35. *Id.*

36. *Id.*

37. *Id.*

38. *Id.*

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