

Women's Justice Center Centro de Justicia Para Mujeres

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Ms. Dubravka Šimonovic
UN Special Rapporteur on Violence Against Women
OHCHR-UNOG
Geneva, Switzerland

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January 25, 2017

Dear Ms. Dubravka Šimonovic,

This letter is our response to your request for comments on women's shelters and restraining orders.

Our Background: I have been women's rights advocate in Sonoma County, California for the past 26 years; for 7 years as an advocate at our county rape crisis agency, and for the past 19 years as director of Women's Justice Center. Women's Justice Center is an independent nonprofit with a mission to end violence against women, particularly in the Latina and other under served communities of Sonoma County. Our funding is 100% community based and we have operated on a budget averaging less than \$60,000 a year.

Battered Women's Shelters:

In countries or states with adequate violence against women (VAW) legislation, we are convinced and we have demonstrated in thousands of cases that battered women's shelters are mostly unnecessary. For the most part shelters can and should be phased out. They are unjustified on principle, and they are a huge financial and energy drag on the movement to end violence against women.

Women should not have to abandon their homes and neighborhoods as the price of getting free of the violence. We highly recommend that establishing skilled, independent and aggressive advocacy centers, unconnected to shelters and unburdened by the costs of maintaining a shelter, are a low cost best practice for stopping the violence while keeping women safe in their homes.

Women's shelters in the U.S. were established at a time when the legal structures were inadequate for dealing with violence against women. Today, though not perfect,

throughout most of the U.S. and other developed nations the laws give authorities more than sufficient powers to apply whatever degree of restraints on the perpetrator as are needed to assure a woman's safety in her own home.

Once there is violence or the threat of violence it is the perpetrator of that violence that should be restrained or incarcerated to the extent needed to protect the women's safety.

The near universal continuing problem is that police, prosecutors and courts, despite their soaring public rhetoric, too often disregard, disrespect, and dangerously under-enforce the available VAW laws. Too often they don't fully investigate and fail to properly interview the victim and witnesses, if they interview at all. They fail to follow all evidence leads, neglect applying needed orders, ignore doing adequate risk assessment, decline needed arrests, fail to affix adequate bail, and fail to fully prosecute and punish the criminal acts. They frequently mistreat and misinform victims while hugely ignoring their needs.

All too often the attitude of our unacceptably male dominated criminal justice officials is 'We don't want to do it, we don't have to do it, we know nobody's going to make us do it, and we know a million ways to get out of doing it.' In jurisdictions where laws are adequate these enforcement failures can and should be remedied with aggressive independent advocacy.

As an independent advocacy center over the years we have advocated for close to 5,000 victims of rape, domestic violence, and child abuse. In that time we have had to put less than 25 women in a shelter, this despite the very low income, the language problems, and immigrant status of the majority of our clients.

As the women's advocates, we immediately identify if and where the system is failing and apply needed pressures and escalating tactics to make certain the system responds properly. We have shown in thousands of cases that this is not only feasible but also is preferable as, except in very rare cases, it keeps women and children from losing their housing at the most difficult times of their lives.

See: [Online Handbook, Advocating in the Criminal Justice System for Victims of Rape, Domestic Violence, and Child Abuse](#)

We have accomplished this by intentionally foregoing any and all government funding and by not operating a shelter. The absence of ties to government money and the freedom from the costs and burdens of operating a shelter has allowed us to advocate aggressively, and without compromise, to press law enforcement and other entities to respond fully and properly to our clients' cases.

See: [How To Start an Independent Advocacy Center to End Violence Against Women, ...and Why](#)

Our main frustration is that we can do this with the individual cases of women who come to us for help but have so far been unable to get the systems to respond properly for victims at large. We know this from the statistical analyses we and others have done over the years.

In addition to keeping women safely in their homes, we are convinced this strategy of aggressive and skillful advocacy is also advantageous to the overall goal of ending violence against women. Furthermore, it's a strategy that we believe will become increasingly vital as government funds, at least in the U.S., are likely to become increasingly curtailed.

a) Shelters are increasingly a detriment to the movement to end VAW because the cost of buying a large building, paying the mortgage and maintaining a shelter is so high as to overwhelm and consume the resources that are needed to carry out other critical efforts needed to end this violence.

b) The inordinately high costs of shelters essentially puts the VAW movement into the real estate business and forces the movement to enter into compromising granting contracts with law enforcement and other government entities creating serious and unacceptable conflicts of interest, conflicts in which it is almost always the women clients who are short changed. As a result much of the violence against women movement in the U.S. has become embedded and subordinated in the very institutions it most needs to change.

c) Shelters throughout the U.S. have virtually all adopted 'service provider' roles and policies and have abandoned an activist or strong advocacy role. They have done so mostly as a means of maintaining government funds. Many have established policies specifically restraining staff activism. For example, one common shelter policy forbids staff from confronting law enforcement. Conversely, a number of VAW centers and shelters that have tried to maintain activism and strong advocacy in the criminal justice system on behalf of their clients have ended up having their government funding denied. Law enforcement officials simply refuse to sign onto the center's request for funds as is required in order to obtain the funds.

d) Shelters are also detrimental to the movement because they serve to provide the often reluctant law enforcement with a dumping ground to warehouse and keep women temporarily safe while allowing these same officials to deny women justice and to side step their obligation to fully and properly investigate, prosecute and constrain the perpetrator.

e) In countries and states with adequate VAW legislation, we are convinced that if even a fraction of the enormous funds now being consumed by shelters were instead used to train staff in the skills of aggressive and escalating advocacy needed to pressure officials to fully enforce VAW law, we would be much further ahead in ending the violence than we are now. Without the burden of running shelters, advocates would also be freed up to take a much more activist and social change role in all parts of their communities toward ending violence against women.

f) We want to stress again that our recommendation of independent advocacy centers is not our theoretical belief. We have shown this strategy to be fully viable in practice on thousands of cases. Not only have we been able to free our clients from violence while keeping them safe in their homes, we have done this in the most disadvantaged segment of our community on a budget that is only a small fraction of the budgets of

most U.S. women VAW shelter centers.

g) Given the overwhelming costs of maintaining shelters, the advantages of avoiding shelters both to individual women and the movement, and the ominous threats to U.S. government shelter funding, we highly recommend you consider the importance of prioritizing aggressive independent low budget advocacy models, operating without the burden of operating shelters, as a best practice for ending violence against women.

Restraining Orders:

We routinely consider restraining order options for our clients. However, depending on multiple circumstances, it's not uncommon that we may advise clients against seeking family court domestic violence restraining orders, and to instead obtain criminal court protective orders, or to at least wait before going into family court for a domestic violence restraining order until sufficient evidence has been entered into a criminal case.

The whole U.S. family law system is structured on the assumption that family disputes are not criminal disputes. There are many risky legal consequences for victims of violence against women that stem from this fact. Family law and family court proceedings do not provide the legal protections needed for victims of violent crimes. A victim attempting to deal with a situation of rape, domestic violence, or child abuse in family court is like trying to drive a semi-truck over a bicycle bridge. It's a system that often collapses around her.

One consequence is that perpetrators of violence against women crimes can and often do easily and successfully wield the family court system, including the family court restraining order process, as one more weapon against the victims. One particularly dire and notoriously common consequence for victims seeking family court protective orders without sufficient criminal case grounding is that the family court ends up giving custody of the children to the violent perpetrator.

Because of the multiple legal risks to victims of opening a family court case (by seeking a restraining order) it's critical that advocates be able to educate victims to these risks and to help the victim evaluate her circumstances so she make the best decision as to whether or not to seek a domestic violence restraining order. Only when circumstances are favorable for the victim can these orders serve their function of protecting her.

It's also important to note that violation enforcement for both criminal court protective orders and domestic violence restraining orders depends on police and prosecutors. As such, these orders are only as effective as the police and prosecutors who enforce them. Because police and prosecutors so frequently disregard and minimize violations of these orders aggressive advocacy is again critical to the proper functioning of these orders in protecting victims.

(See: [Beware Family Court; What Victims and Advocates Should Know](#))

Please let us know if you have further questions or if we can be of further assistance.

Sincerely,

Marie De Santis
Director, Women's Justice Center