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New York Senate

Committee on Social Services and

Committee on Women's Issues

Joint hearing

On Human Services Programs for Domestic Violence Survivors

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Good afternoon. My name is Remla Parthasarathy, and I am the Managing Attorney, Crime Victims unit at Empire Justice Center, as well as the Project Leader of the Crime Victims Legal Network. I came to Empire Justice Center in 2015 with over 20 years of experience in the field of intimate partner and sexual violence.

Empire Justice Center is a statewide not-for-profit law firm and advocacy organization with seven offices across the state: in Albany, Rochester, Yonkers, White Plains, Central Islip, and Hempstead. We focus on areas of law where we can have the most impact, with the goal of addressing the root causes of injustice through our 360-degree approach to systems change. We center client experience to identify barriers and we break them down using targeted training, legal intervention, and policy advocacy. In this way, we practice, teach, and change the law to make it work for all New Yorkers.

Thank you, Senator Persaud and Senator May, for holding this hearing today.

About the Crime Victims Legal Network

The Crime Victims Legal Network is a partnership of organizations that work together to connect victims of crime with civil legal information, resources, and assistance. We do this primarily through our website NY Crime Victims Legal Help or crimevictimshelpny.org

The Crime Victims Legal Network (CVLN) came into being when the New York State Office of Victims Services (OVS), through a 2015 Office of Victims of Crime grant, partnered with Empire Justice Center, the Center for Human Services Research, and Pro Bono Net. Working with an Advisory Committee, in 2018, we launched the online resource, NY Crime Victims Legal Help. While it is important to provide crime victims with self-help resources and accurate information, OVS, knew that it was essential that these individuals have access to attorneys to assist them address the myriad civil legal needs that arise out of crime victimization. To that end, in 2018, they funded over 60 organizations enabling them to hire new attorneys to represent crime victims – mostly victims of domestic and gender-based violence – and assist them with these many civil needs, which includes housing, employment, finance, family law, and of course, safety. All organizations that receive OVS funding to provide attorney services to crime victims are part of CVLN as are all OVS-funded Victim Assistance Programs.

To inform our creation of the NY Crime Victims Legal Help website, the Center for Human Services Research at the University at Albany, did a comprehensive needs assessment¹ that included the participation of over 300 crime victims and 200 service providers. While anyone who was a victim of crime could participate in the needs assessment, a majority of crime victims who responded indicated that they had experienced domestic violence, rape, stalking,

¹ “The Civil Legal Needs of Victims of Crime in New York State: An assessment of the Issues, Services, and Challenges in Meeting the Civil Legal Needs of Victims” [2017] available at https://www.albany.edu/chsr/Publications/Civil%20Legal%20Needs%20booklet%202017_pages.pdf

or sexual violence. Not surprisingly, our findings indicated that victims need legal information and/or legal assistance.

- 47% indicated they needed help knowing what services were available,
- 45% indicated they needed help understanding the legal system
- 34% said they needed help filling out legal forms or filing documents
- 31% said they needed help finding a lawyer
- 29% were unsure if their case had merit
- 17% were not sure whether they had a legal problem

However, only 30% of survey respondents reported that they received legal advice and only about ¼ reported having received legal representation or assistance.

The two civil legal areas that victims indicated they needed the most help were family and housing; this is consistent with what we are currently seeing with domestic violence victims: a significant need for attorneys to assist with divorce, custody, child support and other legal actions involving their children, and the need for attorneys to help with landlord-tenant issues and illegal evictions.

The creation of the Crime Victims Legal Network and the website, crimevictimshelpny.org², were meant to address this gap in service delivery.

About our direct services

In addition to our work on CVLN, Empire Justice Center has a contract with the Office of Victim Services to provide direct legal representation to immigrant victims of crime from our Long Island and Westchester offices and subcontracts with Legal Assistance of Western New York to represent crime victims in Monroe County.

About the importance of civil legal services for domestic and gender-based violence victims

Unquestionably, human services programs are essential in responding to and uplifting those experiencing domestic and gender-based violence. However, our collective work, experience, and research show that civil legal services are also a critical part of the continuum of services for these survivors. Without civil legal services, a significant part of their needs will remain unmet and we will have failed our professional and societal responsibility of assisting these victims to be safer.

² For information detailing the usage of crimevictimshelpny.org and the reach of the CVLN Team at Empire Justice Center, please read, "Crime Victims Legal Network: 2019-2022 Grant Report" available at https://crimevictimshelpny.org/library/item.788325-CVLN_2019_2022_Grant_Report

Domestic violence programs, which offer both emergency shelter and non-residential services, provide life-saving assistance to domestic and gender-based violence survivors. Civil legal programs provide the means by which these individuals are able to access justice through the legal system and have representation to help them transform and stabilize their lives, enabling them to move from survivors to thrivers.

Many people, when they think of a crime victim, think of the criminal justice process – and that may be a part of the experience of some crime victims. But we know many crime victims never interact with law enforcement, prosecution, and the criminal justice system. This is particularly true for victims of domestic and gender-based violence, and yet they may experience a plethora of issues for which they need additional support, advice and counsel to navigate.

Some domestic violence victims may not call the police, but they may seek emergency shelter at their local domestic violence program, or they may access non-residential services – such as public assistance advocacy or counseling services – from these or other human services programs. But what they will likely realize is that in order for them to escape their abusive partners, they need the help of an attorney – someone who can help them obtain an order of protection, help secure the safety and custody of their children, help them to legally terminate a joint lease, or assist them keep their employment while they are addressing their immediate needs.

Civil legal attorneys are able to address many of the issues that arise out of domestic and gender-based violence victimization, and their value cannot be underestimated. Evidence has shown that civil legal services improve the likelihood that victims will be able to obtain protective orders from courts. According to a report³ by the New York University School of Law Institute for Policy Integrity, the availability of civil legal assistance can be even more effective in reducing rates of violence than the provision of shelter or counseling services.

There is a significant need for civil legal attorneys who can assist victims with their divorce and family law matters

Since 2020, the CVLN Team at Empire Justice Center has been working to create a community of practice across the state for OVS-funded attorneys and paralegals who represent victims of crime. This positions us to be able to see trends across the state clearly and, to answer one of the questions of this hearing, I would like to flag one trend we are seeing. For background, most of the legal staff who attend our monthly forums represent victims of domestic violence, sexual abuse, elder abuse, and gender-based violence. As indicated previously, the legal needs of victims are profound and involve the essentials of life - housing, family, finance, and safety. One victim could easily have 5 open civil cases all stemming from their victimization in areas ranging

³ New York University School of Law Institute for Policy, “Supporting Survivors: The Economic Benefits of Providing Civil Legal Assistance to Survivors of Domestic Violence” [2015] available at <https://policyintegrity.org/documents/SupportingSurvivors.pdf>

from employment issues to housing evictions to obtaining orders of protection and child custody. These needs are statewide from Long Island to Niagara Falls to the North Country. And with all those issues the top thing that these attorneys have indicated for their clients is attorneys to help with contested divorces.

Many organizations only have the capacity to assist with uncontested default divorces because they do not have the resources to handle contested divorces. The few organizations that do handle contested divorces may have extended waiting lists, as long as 6-months. Because there is no general right to counsel for divorces and almost no funding to handle contested divorces, we are leaving domestic violence victims in a terrible situation where they cannot completely extricate themselves from their abusive partners.

We also know that abusive partners very often use the court system to continue to abuse, harass and torment their victims. We have seen many cases of vexatious litigation, and cases where custody and other court orders are disregarded by the abusive partner. Frequently, the abusive partner is the moneyed spouse having used financial abuse to maintain their power and control by prohibiting the other partner from working and are thus, in a position to file numerous court cases against their victim and pay attorneys to handle these cases. They have the means to return again and again to court. Meanwhile, the victim who may not have access to financial resources let alone a job, is left defenseless without an attorney, and the legal system is allowed to become another tactic of abuse, or tool of abuse and violence. Because there is also no right to attorney in child support cases and abusive partners may be working off the books or finding other ways to hide their income, it is often very difficult for victims to get to a place where they can be financially able to take care of themselves and their children. This is a gaping hole in the continuum of care for victims of domestic and gender-based violence.

Issues with implementation of the Family Violence Option must be addressed

We would also note the inconsistent implementation across social services districts of New York's Family Violence Option. This is a barrier to justice for victims of domestic violence and needs to be addressed.

Since the mid 1990's the FVO exempts victims of domestic violence from certain programmatic requirements that are conditions of eligibility for public benefits. Our laws, regulations, and administrative directives around the FVO are comprehensive, however, New York has an implementation problem, in particular in the local districts. Data is tracked for DV screening, "credibility," and around the waiver process, and we see wild variations between districts in terms of the waiver applications that are granted.

In 2019, Empire Justice Center released a thorough examination of the implementation of the Family Violence Option, together with a detailed and lengthy list of recommendations to OTDA

for improvements. This report⁴, entitled [*Poverty and Violence: Does New York's Family Violence Option Make a Difference?*](#), conducted a literature review, analyzed the statutory and regulatory framework of the FVO, the data contained in the annual OTDA Statistical Reports on Public Assistance Programs, and reported on interviews conducted with some local districts and domestic violence liaisons, staff at OTDA, OPDV, NYSCADV, and others.

Because it is estimated that 50% to 60% of women receiving public assistance have been victims of domestic violence, compared to 30% of all U.S. women⁵, it is critical that the FVO be implemented effectively to protect victims from further violence and provide them with the support they need to achieve economic security.

As documented in the report, we found significant problems with New York's implementation of the FVO:

- (1) Information received by clients as they begin the public assistance application process is often confusing and offered insufficiently and in ways that are inequitable to persons who have limited English proficiency or other barriers;
- (2) Applicants and recipients are not afforded the opportunity to be screened throughout the application process and after receipt of benefits;
- (3) Liaisons' credibility analyses are not uniformly applied statewide, causing many victims to be denied needed protections because a heightened standard is being used in their jurisdiction.

As a result of our study, we made numerous recommendations which include, but are not limited to:

- (1) Provide better notice to applicants and recipients about the FVO, along with enhanced outreach to community organizations and advocates;
- (2) Better training for Domestic Violence Liaisons and all district staff who might interact with DV victims;
- (3) Require greater uniformity in assessments and decision-making related to eligibility for the FVO, with increased oversight from OTDA to ensure districts are using reasonable standards;
- (4) Ensure that DVLs have access to emergency funds to help victims meet urgent needs, and provide benefits adequate for victims to cover the costs of housing and other basic needs.

⁴ Don Friedman, Esq. [*Poverty and Violence: Does New York's Family Violence Option Make a Difference?*](#), a report for Empire Justice Center, 2019.

⁵ *Id.*, and Center for Budget and Policy Priorities at <https://www.cbpp.org/blog/states-should-use-new-requirement-to-improve-tanf-for-domestic-violence-survivors#:~:text=Although%20research%20challenges%20such%20as,percent%20of%20all%20U.S.%20women> [last accessed 10/2/23].

Fluctuations in VOCA funding leaves New York crime victims vulnerable

The OVS Grant Funding to Victim Assistance Programs comes from the VOCA Victim Assistance fund and the New York's Criminal Justice Improvement Account/General Fund.

VOCA funds are the largest and most crucial funding source for these crime victim service providers. Yet due to shrinking deposits into the federal Crime Victims Fund, annual VOCA grants to states have declined. New York's federal VOCA grant has declined from \$199.3 m in 2018 to \$77.7 m in 2023⁶ -- a drop of sixty percent.

We are grateful that Governor Hochul and the New York Legislature earmarked additional funding of \$14.4 million per year over three years. However, we must note that there are additional threats on the horizon, and that cuts are especially problematic for legal services, who commit to a client for the length of a case, which may last beyond a grant.

Alarming OVS has been warning grant recipients to prepare for the possibility that OVS may not be able to pay out the third year of the current contract and, additionally, that contracts after this may be a fraction of what VAPs and victims need. Much of this is rooted in fluctuations in VOCA funding at the federal level, which is visible in the chart illustrating FY 2007 – FY 2023 Crime Victims Fund End of Year Balance⁷ and FY 2007 – FY 2023 Crime Victims Fund Annual Receipts⁸. However, New York can and must take steps to ensure crime victims have access to the services they need.

⁶ NYS Office of Victim Services. Powerpoint: *OVS Funding –Overview of State and Federal Funding Sources*. Thursday, July 27th, 2023. Slide 13: OVS VOCA Victim Assistance Awards.

⁷ U.S Department of Justice Office for Victims of Crime; FY 2007 – FY 2023 Crime Victims Fund End of Year Balance

(as of 8/31/2023). Accessed on 9/29/2023. <https://ovc.ojp.gov/about/crime-victims-fund/fy-2007-2023-cvf-balance.pdf>

⁸ U.S Department of Justice Office for Victims of Crime; FY 2007 – FY 2023 Crime Victims Fund Annual Receipts (as of 8/31/2023). Accessed on 9/29/2023. <https://ovc.ojp.gov/about/crime-victims-fund/fy-2007-2023-cvf-annual-receipts.pdf>

Conclusion

As you move into the 2024 legislative cycle, we respectfully request that the legislature work with Gov Hochul to:

- Ensure that the third year of the current OVS contracts are fully funded to provide continued services for victims of crime. This would include \$62.5 million in FY24 (10/1/24-3/31/25) and \$62.5 m in FY25 (4/1/25-9/30/25).
- Explore legislative models other states, such as Maryland, are using to close gaps caused by fluctuations in federal funds, to ensure critical funding and services remain consistent.
- Work to address the broader issues with state contracting, notably timely execution and payment. Currently the delays can last for months to over a year, which puts not-for-profits at risk. When our work is representing individuals in crisis – including victims of crime -- our instability undermines the goal of providing a lifeline on behalf of the state of New York. We look forward to working with legislative leaders and the governor to find ways to advance the systemic issues we are experiencing, with a goal of being better able to serve our client communities.

Thank you for hearing our testimony today.