



## **Intimate Partner Violence**

Intimate partner violence (IPV) has devastating and lasting consequences for those who experience it. We work to reform the civil justice system, and its points of intersection with the criminal legal system, so that survivors of IPV obtain the greatest possible protections and receive remedies that are responsive to their experience of a range of harms.

### Background

Amongst Her Justice clients, 80% are survivors of IPV — a pattern of behaviors used by one partner to maintain power and control over another partner in an intimate relationship. Many of our clients — in particular those we assist with immigration applications — have also experienced other forms of gender-based violence, such as sexual assault and trafficking.

Our clients' experience of intimate partner and gender-based violence informs nearly every aspect of their lives, including their ability to remain financially stable and maintain housing and employment, along with their interactions with the courts and the immigration system. Yet, the courts and agencies within the civil justice system often fall short in addressing IPV and its impact on survivors' lives.

Many laws addressing IPV, including its very definition under New York State law, were written with a primary focus on physical harm. The focus on physical harm diminishes the recognition of other forms of abuse, for example, financial abuse — where an abuser prevents an individual from working, controls their supply and use of money, and incurs household debt without the victim's knowledge — which affects more than 99% of survivors. Even where laws and policies have been enacted or amended to recognize the all-encompassing nature of IPV, the civil law overall lacks a consistent recognition of the issue.

When abusers engage in harmful behavior in court that delays litigation, undermines victims' credibility, and violates victims' privacy, jurists fail to hold abusers accountable when they refuse to impose sanctions for frivolous or vexatious litigation in the family law context, or refuse to take into account bad faith in fashioning case remedies. Survivors can experience this lack of procedural justice as an extension of the abuse they suffered in the relationship. In all such instances, the greatest harm can be diminishment of survivor agency in the legal process and outcomes.

Our policy work also addresses barriers our clients face in other government systems, namely the criminal legal system, with which many must interact as survivors of IPV seeking help. Since the legal system prioritizes criminal and law enforcement responses to abuse, many remedies are available to survivors only through those channels, for example, by reporting abuse to police or engaging with the criminal courts to keep abusers away. Yet many survivors do not feel safe engaging with the criminal system, whether because of past harmful experiences or general mistrust, or they may not want their abuser to be incarcerated or deported as a result of a criminal conviction. Many survivors are forced to engage in the criminal system when the police are called by others; this is another example of survivors' diminished agency in the traditional legal process. That access to civil justice remedies for IPV often depends on or is linked to survivors' engagement with the criminal system perpetuates the primacy of traditional criminal legal solutions to this issue and the harm that can bring to individuals and communities.



## **OUR POLICY AGENDA SUPPORTS:**

### **Policies that center survivor experience in crafting legal remedies for and system responses to intimate partner violence:**

- Courts' efforts to improve survivors' perception and experience of fairness in the legal system by prioritizing the procedural justice values of dignity, litigant voice in and understanding of the legal process, and judicial neutrality, to help reduce trauma.
- Efforts to root out racism and gender bias in the courts, including increasing diversity among judges, conducting anti-bias training for court personnel and judges, and ensuring accountability for those engaging in discriminatory practices.
- Examining and reconsidering the primacy of a traditional law enforcement response to incidents of IPV and exploring and innovating alternatives, including reallocation of resources to mental health and other social services and community-based solutions in lieu of policing and carceral solutions.
- Aligning legal advocacy with policies in other sectors — economic, health, international human rights — to help ensure more equitable protections and remedies for survivors and work toward prevention of IPV.

### **The reauthorization and expansion of the Violence Against Women Act (VAWA):**

- At a minimum, continued reauthorization of VAWA, the landmark federal legislation that provides a range of protections against and responses to violence against women and girls, at its current scope and capacity.
- Using each reauthorization opportunity to increase funding and to expand the scope of services for all victims of gender-based violence.

### **Laws that protect victims of intimate partner violence from discrimination in housing and employment:**

- Housing protections for victims of intimate partner violence so that they are not evicted or otherwise penalized for IPV-related police visits, or other symptoms of abuse (noise, property damage, etc.).
- Workplace protections so that IPV victims are not fired or otherwise penalized for reasons related to their victimization (need to attend court, abusive partner disrupting the workplace, etc.).

### **Ensuring that the civil justice system addresses the economic consequences of intimate partner violence when it provides legal remedies:**

- A broad definition of IPV/domestic violence under State and City law that encompasses the range of abuse that survivors experience, including physical, emotional, and financial harm, and consistent incorporation of this definition into relevant laws, along with education of jurists about the application of any such law.



- Holding abusers accountable for financial abuse in civil cases, including when granting orders of protection in Family Court and in determining financial relief in divorce and child/spousal support proceedings, and amending the law as needed to grant civil courts adequate authority to fashion remedies for financial abuse.
- Providing more options for debt relief for survivors of IPV, including recognizing in law the defense of coerced debt (in addition to the existing defense of identity theft) to legal actions by creditors against spouses who have incurred debt because of financial abuse in marriage.

#### **Ensuring that abusers in New York State are separated from their firearms:**

- The risk of serious bodily harm, including death, increases when abusers have access to firearms. State law should be expanded so that all abusers subject to criminal and civil orders of protection are prohibited from possessing guns and required to relinquish any guns already in their possession.
- Consistent ordering of firearm prohibition and relinquishment and investigating compliance on the part of the abuser.

#### **OUR POLICY AGENDA OPPOSES:**

##### **Any requirements that intimate partner violence victims must present police or court records to prove their victimization:**

- IPV victims should be able to access key protections and services by providing an affidavit as proof of victimization, as opposed to more burdensome requirements that they produce records (e.g., court or police records) that are outside of their possession and difficult to obtain.

##### **The courts' failure to act when abusers manipulate system processes to harm a victim:**

- Courts must prioritize holding abusers accountable for engaging in retaliatory and frivolous litigation that causes undue delays or violates a victim's privacy, including imposing sanctions for frivolous or vexatious litigation in the family law context, and taking into account bad faith in fashioning case remedies.