

### COMMITTEE ON DOMESTIC VIOLENCE

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Commissioner Rose Pierre-Louis Mayor's Office to Combat Domestic Violence 100 Gold Street, 2<sup>nd</sup> Floor New York, NY 10038

Dear Commissioner Pierre-Louis:

Congratulations on your appointment as Commissioner. I am writing on behalf of the New York City Bar Association's Domestic Violence, New York City Affairs and Social Welfare Law Committees to convey some policy recommendations for your consideration. These recommendations were included in our *Policy Recommendations for New York City's Next Mayor*, which we have conveyed to Mayor de Blasio. We applaud your office for all it has done and continues to do to help victims of domestic violence in New York City, and we hope our recommendations will be helpful as you look for ways to expand on that good work.

As you are well aware, domestic violence continues to be a longstanding national, state and New York City problem and the number one cause of injury to women in the United States. Yet the consequences of domestic violence reverberate far beyond the individual victim to the survivor's children, who are repeatedly traumatized by the violence in their homes, and to society at large, which shoulders the cost of medical bills, lost days of work and social services.

While much reform for victims of domestic violence has taken place at the federal and state levels, these initiatives are given real meaning only when implemented at the local level. Some of the most effective reforms have come from action at the mayoral level. The Mayor's Office to Combat Domestic Violence remains at the forefront of our City's efforts to provide effective protection for victims of domestic violence. The Family Justice Centers established through the Mayor's Office serve as a model for how a metropolitan center can respond to the needs of domestic violence victims. These centers provide, in a single location, access to services from a myriad of providers who can help a victim address all of the needs that must be met in order for her to achieve safety. In conjunction with dedicated Integrated Domestic Violence court parts, victims have more resources than ever before.

We have urged Mayor de Blasio to adopt a zero-tolerance policy towards domestic violence. The Mayor should insist upon a close working relationship among the NYPD, the

<sup>&</sup>lt;sup>1</sup> Available at http://www.nycbar.org/images/stories/pdfs/mayoralreport04302013.pdf.

District Attorneys, the Administration for Children's Services, the Department of Housing, the Health and Hospitals Corporation, DOC, DOE and the local courts, as well as all other agencies that regularly interact with families. There must be clearly articulated common goals concerning domestic violence, and identification of the responsibility and role of each agency in realizing those goals. Awareness and educated response can go far toward eradication. In that regard, a few recommendations follow:

#### PROMOTE COLLABORATION ON U-VISA CERTIFICATION POLICIES

The City Bar urges your office and Mayor de Blasio to strengthen partnerships between agencies that certify U-visas and immigrant crime victim advocates. The U-visa is a critical form of immigration relief for immigrant survivors of domestic violence, sexual assault, human trafficking and other forms of violence. Its purpose is to give victims of certain crimes temporary legal status and work eligibility in the United States for up to four years. The U-visa certification is a mandatory piece of evidence that the immigrant victim must include in her U-visa application. The certification verifies that the immigrant has been a victim and that she has been, is being, or is likely to be helpful in the detection, investigation, prosecution, conviction or sentencing of criminal activity.

In New York, agencies and officials authorized to sign U-visa certifications include the District Attorneys, Family Court and Criminal Court judges, the Administration for Children Services and the NYPD. While certain agencies have significantly improved their U-Visa certification process, across all agencies there is a lack of clarity when it comes to how and where to obtain the certification, and whether it will be signed. This can result in long delays before learning the status of necessary certifications. These inconsistencies and delays can create mounting problems for immigrant domestic violence victims who fear being deported and separated from their families and communities. Your office can play a critical leadership role in encouraging and providing opportunities for stakeholders to come together and discuss what is working, what isn't working, and whether model policies should be created.

By providing certifying agencies with information about the U-visa certification process and tools to implement policies, misinformation about certification can be clarified and the process can be simplified and expedited. We urge you to use your leadership to encourage and support law enforcement and district attorney offices in this critical area.

<sup>&</sup>lt;sup>2</sup> See Legal Momentum, *U-Visa Fact Sheet*, available at <a href="http://www.legalmomentum.org/assets/pdfs/wwwuvisafactsheet-2.pdf">http://www.legalmomentum.org/assets/pdfs/wwwuvisafactsheet-2.pdf</a> (last visited March 25, 2013).

<sup>&</sup>lt;sup>3</sup> INA § 101(a)(15)(U), 8 U.S.C. § 1101(a)(15)(U) (outlines four statutory requirements for U-visa eligibility and contains non-exhaustive list of qualifying criminal activities); INA § 214(p)(1), 8 U.S.C. § 1184(p)(1) (details certification requirement).

## PROTECT DOMESTIC VIOLENCE VICTIMS' ACCESS TO PUBLIC HOUSING

According to the U.S. Department of Housing and Urban Development, domestic violence is the third leading cause of homelessness among families. To escape abuse, many domestic violence victims are forced to leave their homes and to struggle without the financial assistance previously provided by their abusers. In the midst of their crisis, they must secure new housing for themselves and their children. In a city where housing is scarce and expensive, this is no easy task. When survivors are unable to find or afford new housing they may choose to return to the violence, or else risk becoming homeless.

In order to provide safety for domestic violence victims amidst this housing crisis, New York City should adopt a change in policy which will establish alternative requirements for domestic violence victims to qualify for N-1 Priority Access to NYCHA housing accommodations. NYCHA currently provides priority placement for domestic violence victims able to provide specific documentation showing that they suffered more than one violent act and reported those acts through official channels. The documentation requirements are specific as to content, nature, and timeliness. For example, a victim will qualify for priority if she has: (1) a criminal court order of protection documenting physical violence or threat of physical violence that occurred in the past 12 months; (2) a domestic incident report documenting violence within the past 24 months with the same perpetrator but a different physical incident; and (3) a letter from a social services provider.

Such strict requirements leave many victims without an avenue for relief. For example, a victim of domestic violence subject to frequent physical abuse for a period of ten years, who made one police report in the current year and one three years ago, but who did not file for an Order of Protection, would not be eligible for NYCHA domestic violence priority status. Many victims do not report the abuse to law enforcement, for fear of increased violence or uncertainty as to government outcomes. This is especially true within immigrant and minority communities. The result is that victims are denied safe and secure housing away from violence. Many return to the violence, while others linger in the shelter system. This is socially and financially costly to our society.

A modest change in policy would suffice, one that allows victims to qualify for priority placement by submitting an application and two sworn statements: one from the applicant and one from a qualified domestic violence service provider. This would allow victims who choose not to seek relief through the legal system nevertheless to leave the violence without the threat of homelessness.

In addition, the housing crisis does not bode well for domestic violence victims with pets in their homes. Studies of domestic violence victims seeking shelter services shows that up to 48% of them report that they delayed leaving a dangerous situation because they feared for their

http://portal.hud.gov/hudportal/HUD?src=/press/press releases media advisories/2010/HUDNo.10-248 (last visited March 25, 2013).

<sup>&</sup>lt;sup>4</sup> Press Release, HUD No. 10-248, Donna White, U.S. Dept. of Housing & Urban Development, HUD Strengthens Protections for Victims of Domestic Violence (Oct. 27, 2010), *available at* 

pets' safety.<sup>5</sup> Pets have been found to be a source of comfort and stability to children in domestic violence households. Animals are often used to victimize children and the family, and domestic violence victims may stay in an abusive environment to protect the animal, if they are not able to move to safe housing with the animal.<sup>6</sup> Domestic violence victims and their children should not be deprived of affordable housing because they have a pet or pets.

We urge your office to work with NYCHA on this issue and to support City and/or State legislation that improves housing access for all domestic violence victims.

#### CREATE SUPERVISED VISITATION FACILITIES

Currently, families facing domestic violence have a dearth of services available in New York City to monitor safe visitation between the abusive parent and the children. As a result, Family Courts increasingly allow unsupervised visitation between a child and an abusive parent. Faced with this crisis, the City should spearhead creation of standardized, professional, and court-responsive supervised visitation centers in each borough.

Visitation services include monitored exchange programs and supervised visitation programs, both of which can encourage healthy parent-child relationships while ensuring the safety of adults and children. Monitored exchange programs provide a safe and secure location for dropping off and picking up children before and after visits. This service can, in many cases, decrease the chance of an angry exchange or the likelihood of inappropriate behavior in front of children. In turn, fewer angry moments between parents and around children help to preserve and promote healthy relationships for the future.

The current inability to monitor a family in a safe environment over a prolonged period of time undercuts all other reforms in the court and in City agencies. The Family Justice Centers that are already flourishing citywide might form an ideal partner for such a venture. While supervised visitation centers could not be physically located in the Justice Centers, they provide a centralized center for domestic violence resources and could provide the expert oversight needed for these centers. When safe, long-term resolution of family matters can be achieved through front-loading of resources, the savings achieved in reduced re-arrests, prosecutions and Administration for Children's Services interventions offset the expense.

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<sup>&</sup>lt;sup>5</sup> Sherry Ramsay, Mary Lou Randour, Nancy Blaney & Maya Gupta, *Protecting Domestic Violence Victims by Protecting their Pets*, Today: A Publication of the National Council of Juvenile and Family Court Judges, Spring 2010, *available at* <a href="http://awionline.org/sites/default/files/uploads/legacy-uploads/documents/DV-NCJFCJArticleSpring2010-040611-1302122112-document-38932.pdf">http://awionline.org/sites/default/files/uploads/legacy-uploads/documents/DV-NCJFCJArticleSpring2010-040611-1302122112-document-38932.pdf</a> (last visited March 25, 2013).

<sup>&</sup>lt;sup>6</sup> See Domestic Violence and Animal Abuse, N.Y.S. Office for Prevention of Domestic Violence Bulletin, Summer 2010, available at <a href="http://www.opdv.ny.gov/public awareness/bulletins/summer2010/summer2010">http://www.opdv.ny.gov/public awareness/bulletins/summer2010/summer2010</a> bulletin.pdf (last visited March 25, 2013).

## IMPLEMENT TEEN DATING VIOLENCE EDUCATION AND SCHOOL SAFETY POLICIES

According to the Department of Justice, girls ages 16 to 24 are more vulnerable to intimate partner violence than any other age group – at a rate almost triple the national average. In New York City, one in three teens experiences some kind of abuse in romantic relationships. These frightening statistics are on the rise. According to the New York City Department of Health and Mental Hygiene (DOHMH), 10.6% of teen-age girls in the City have reported physical dating violence in 2008 – an almost 50% increase since 1999. Each year, teen dating violence creates negative consequences that go far beyond the individuals in the relationship – it exacts a societal cost through the increased truancy, alcohol and drug use, and mental and physical health problems experienced by victims of intimate partner abuse. The senseless killings of three young New York residents, Danielle DiMedici, Jessica Tush, and Kari Ann Gorman, have shown all too clearly that teenage relationship abuse can turn fatal.

Meanwhile, adolescent and teenage populations in New York City have shown to be receptive to dating violence awareness and prevention programs. The New York City Mayor's Office Healthy Relationship Training Academy is an excellent example, but more is needed to combat the growing prevalence of teen dating violence. We have urged the Mayor's Office to implement educational programming that will teach young people how to strive for and create healthy relationships free of violence. We believe it is the best tool to stop domestic violence and dating abuse and we hope you will support the following recommendations:

- Incorporate education on building healthy relationships and respect for all people into the annual curriculum framework for kindergarten through sixth grade.
- Incorporate dating violence education into the annual curriculum framework for students in grades seven through twelve.
- Ensure that all administrators, teachers, nurses, counselors, school safety officers, and health staff at each school receive teen dating violence training.
- Provide opportunities for parent trainings on the signs and ways to prevent teen dating violence.

<sup>&</sup>lt;sup>7</sup> Callie Marie Rennison, *Intimate Partner Violence and Age of Victim, 1993-99*, U.S. Dept. of Justice, Bureau of Justice Statistics, Oct. 2001, rev. Nov. 28, 2001, *available at* <a href="http://www.bjs.gov/index.cfm?ty=pbdetail&iid=1003">http://www.bjs.gov/index.cfm?ty=pbdetail&iid=1003</a> (last visited March 26, 2013).

<sup>&</sup>lt;sup>8</sup> Carolyn Tucker Halpern, Selene G. Oslak, Sandra L. Martin, Mary L. Young & Lawrence L. Kupper, *Partner Violence Among Adolescents in Opposite-Sex Romantic Relationships: Findings from the National Longitudinal Study of Adolescent Health*, American Journal of Public Health, 91(10), 1680, *available at* <a href="http://www.ncbi.nlm.nih.gov/pmc/articles/PMC1446854/">http://www.ncbi.nlm.nih.gov/pmc/articles/PMC1446854/</a> (last visited March 26, 2013).

<sup>&</sup>lt;sup>9</sup> Intimate Partner Violence Against Women in New York City, N.Y.C. Dept. of Health & Mental Hygiene, 2008, available at <a href="http://www.nyc.gov/html/doh/downloads/pdf/public/ipv-08.pdf">http://www.nyc.gov/html/doh/downloads/pdf/public/ipv-08.pdf</a> (last visited March 25, 2013).

• Create a model school policy on dating violence to assist schools in creating dating violence policies for dating violence reporting and response, including: (1) how to protect individual targets of abuse and harassment, (2) how to enforce civil and criminal orders of protection, (3) how to protect against violations of orders of protection, and (4) how to give notice to students of available resources and remedies. The policy should, subject to appropriate safeguards to the accused student's due process rights under the law, also include a provision authorizing a student or administrator to request the perpetrator of the violence be transferred to another school.

# IMPROVE THE RELATIONSHIP BETWEEN SOCIAL WELFARE AGENCIES AND SURVIVORS OF DOMESTIC VIOLENCE

A large percentage of welfare recipients have experienced domestic violence. New York City places many burdensome requirements on victims of domestic violence to provide cumbersome evidence that may further endanger their safety.

The federal government provides states the option of giving special consideration to the safety needs of domestic violence survivors when they created the Family Violence Amendment. New York State adopted the Family Violence Option, which requires local social service districts to provide universal screening for domestic violence and to create domestic violence liaisons within the Job Centers. The Family Violence Option also requires the notification of the availability of waivers from certain program requirements when domestic violence is present, and calls for the creation of domestic violence liaisons (DVL). HRA's protections and screening protocols fall far short of what is required.

There are several problems with the screening process. First, HRA fails to screen everyone who applies for public assistance and self-identifies as a victim of domestic violence; and it often fails to refer them to a DVL when they do. Second, when individuals are referred to a DVL, they often receive only the bare minimum support, such as the provision of a DV Hotline Number. This represents a lost opportunity to educate victims of domestic violence about valuable resources for their safety. Third, although screening is to be made in a confidential setting by a DVL, in practice, the HRA caseworkers will ask details of the domestic violence in an open setting, instead of making the referral for the waiver assessment by a DVL.

HRA also imposes more stringent standards than the Family Violence Option requires. The Family Violence Option allows for only a sworn statement that a welfare applicant/recipient is a victim of domestic violence. In practice, if a victim of domestic violence shows up for an assessment without several kinds of hard evidence such as multiple police reports, hospital reports, orders of protection, court orders, documents relating to child protective services, letters from social services agencies and psychologists, they are denied a domestic violence waiver from HRA's work and child support requirements.

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<sup>&</sup>lt;sup>10</sup> 03-ADM-2, "Desk Reference Guide for Domestic Violence Screening Under FVO," 99 ADM-8, "Domestic Violence Final TANF Regulations FVO," and 98 ADM-3, "Domestic Violence FVO Under the Welfare Reform Act of 1997."

Finally, domestic violence victims are unable to renew their waivers at the end of their waiver period unless they prove recent incidents of domestic violence, i.e., in the last four months, by way of making police reports or providing hospital reports of injuries sustained by continued domestic violence. Orders of protection are not considered to satisfy this requirement, which is arbitrary, onerous and difficult to meet. Rather, the message given to DV victims is that they have to put themselves in harm's way again in order to obtain a renewal. We hope you will work with the Mayor's Office and HRA to consider and carry out these recommendations:

- Ensure that caseworkers correctly interview the welfare applicants to ensure that domestic violence screening is not overlooked.
- Make greater efforts to inform welfare applicants/recipients about the Family Violence Option and the DVLs. There should be at least one DVL for each Job Center, and the City should ensure that every applicant/recipient who self-identifies as a victim of domestic violence is referred to a DVL, without exception. The DVLs should have the power to grant waivers the same day, especially full waivers, while a domestic violence victim is in their office.
- DVLs should not demand extensive, and only recent, domestic violence documentation at the waiver screening.

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Thank you for your consideration. We would welcome the opportunity to meet with you or a member of your staff to further discuss these issues and how our Committee can be helpful to your office. Please feel free to contact me directly if you would like to schedule a time. We look forward to working with you and the Mayor's Office on these and related issues critical to victims of domestic violence.

Sincerely,

Anna Ognibene, Chair

Domestic Violence Committee

Cc: Maria Cilenti, Director

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