

## Agenda for VAWA Reform:

# Reducing Partner Violence, Respecting Civil Liberties, and Protecting the Family

Thirteen years after its passage in 1994, the Violence Against Women Act has been found to be *ineffective* in curbing domestic violence, *disrespectful* of fundamental civil liberties, and *harmful* to the institution of the family:

1. A recent review of VAWA-sponsored treatment programs and law enforcement strategies found that most programs were ineffective in curbing abuse, and some of them are actually harmful.<sup>1</sup> For example, a recent Harvard University study of mandatory arrest policies concluded, “intimate partner homicides *increased* by about 60% in states with mandatory arrest laws.”<sup>2</sup> So it is no surprise that VAWA has had no discernible effect on intimate partner homicides over the last two decades.<sup>3</sup>

2. VAWA-funded programs have brought about widespread civil rights violations, including problems with sex discrimination,<sup>4</sup> denial of due process, and disregard of the presumption of innocence.<sup>5</sup>

3. VAWA programs are weakening the traditional family. Loose definitions of domestic violence allow for state intervention into even a heated argument or minor couple conflict. That intervention typically forces the partners to separate, escalates the conflict, and discourages reconciliation. In the end, children often end up in a single parent household, placing them at far greater risk of child abuse and other social pathologies.<sup>6</sup>

In sum, University of Pennsylvania researcher Richard Gelles has concluded that domestic violence programs may “*actually be harmful* to women, men, children, and *the institution of the family*.”<sup>7</sup>

Several women’s groups have criticized the law:

- *Ms. Foundation for Women*: “Unfortunately, when state power has been invited into, or forced into, the lives of individuals, it often takes over.”<sup>8</sup>
- *True Equality Network*: “VAWA has spawned an abuse industry that continually expands the definition of domestic violence and condones the filing of false allegations, while ignoring the needs of true victims.”<sup>9</sup>
- *Independent Women’s Forum*: “Men may become alienated from and hostile toward the system in the conviction that it is stacked against them and unjustly favors women.”<sup>10</sup>

One analysis suggested that overall, the Violence Against Women Act has not benefited women.<sup>11</sup> The conclusion is clear: *Reform of VAWA is long overdue*.

RADAR—Respecting Accuracy in Domestic Abuse Reporting—along with the 80 affiliates of the VAWA Reform Coalition has developed the following analysis to make VAWA effective, respectful of civil liberties, and family-friendly.

These problems need to be addressed in the 2010 renewal of the Violence Against Women Act.

Problem	Explanation
<p><b>1. VAWA programs have been ineffective in reducing partner abuse, and in some ways have placed victims at greater risk of violence.</b></p>	<p><i>Treatment of Abusers:</i>  Many jurisdictions in the United States mandate abuser treatment programs based on the Duluth Model which have consistently been shown to be ineffective and disallow treatment based on sound science.<sup>12,13</sup> In many states, persons who conduct batterer intervention programs have no mental health training or qualifications.<sup>14</sup> Furthermore, few VAWA-funded services are available to help abusive women.<sup>15</sup></p>
	<p><i>Restraining Orders:</i>  Research reveals that restraining orders are generally ineffective in preventing future physical violence.<sup>16,17,18</sup> One study found that protection order statutes were associated with an <i>increase</i> in the number of black women killed by their unmarried partners.<sup>19</sup> There is substantial doubt whether restraining orders do anything more than lull victims into a false sense of security.<sup>20</sup></p>
	<p><i>Mandatory Arrest:</i>  Mandatory arrest laws were implemented as a result of VAWA 2000. Even though mandatory arrest was removed from the 2005 version of VAWA, such laws are still on the books in 23 states.<sup>21</sup> A recent analysis from Harvard University shows that mandatory arrest laws actually <i>increase</i> intimate partner homicides by 60%.<sup>22</sup></p> <p>Thirty-three states have laws that impose mandatory arrest for violation of a restraining order, leading to arrests of persons for sending their children a birthday card and similar actions.<sup>23</sup> One study concluded that prosecuting violations of restraining orders was “associated with <i>increases</i> in the homicide of white married intimates, black unmarried intimates, and white unmarried females.”<sup>24</sup></p> <p>Following the introduction of mandatory arrest laws, the number of 911 calls for domestic violence dropped by about 15%,<sup>25,26</sup> suggesting that mandatory arrest deters requests for police assistance.</p>
	<p><i>Human Trafficking:</i>  VAWA has been ineffective in stopping partner violence partly because it has become involved in issues that have nothing to do with partner abuse. For example, VAWA contains numerous references to human trafficking.</p> <p>Trafficking involves holding someone in the <i>workplace</i> through force, fraud, and coercion.<sup>27</sup> But domestic violence involves felony or misdemeanor crimes of <i>violence</i> between <i>intimate partners</i>.</p> <p>Linking the two issues confuses and weakens the effort to stop domestic violence.</p>
	<p><i>Definitions of Domestic Violence:</i>  Civil law definitions of DV are so broad and evidentiary standards are so weak that any verbal dispute or disagreement between partners can be construed as domestic “violence” and becomes the grounds to issue a restraining order.<sup>28</sup></p> <p><i>False Allegations:</i>  False allegations of domestic violence have become widespread.<sup>29</sup> In some cases, women who are involved in an extra-marital affair falsely accuse their husband of abuse once he discovers the affair.<sup>30</sup></p>

	<p><i>Primary Aggressor Policies:</i> Primary aggressor arrest policies and prohibitions on dual arrest promote gender profiling: “there is a growing effort to avoid arresting female <i>perpetrators</i> under a policy of arresting the ‘primary offender’”<sup>31</sup> and “police may be adopting a more lenient attitude toward females.”<sup>32</sup></p>
<p><b>3. VAWA programs have had a disproportionate negative effect on minority and low-income populations.</b></p>	<p><i>Mandatory Arrests:</i> Mandatory arrests have had a disproportionate effect on African-Americans, who now represent 23% of all arrests between spouses and 35% of arrests between boyfriends/ girlfriends.<sup>33</sup> The Ms. Foundation for Women notes, “Criminalization of social problems has led to mass incarceration of men, especially young men of color, decimating marginalized communities.”<sup>34</sup></p> <p><i>Legal Aid:</i> Free legal services are available to alleged victims, but not to alleged offenders. Lower-income persons accused of domestic violence have little or no ability to find legal services. These persons are often forced to agree to an allegation for an offense they did not commit. Only 4% of recipients of VAWA-funded Legal Assistance for Victims services are male.<sup>35</sup></p>
<p><b>4. VAWA undermines the family, escalates partner conflict, and discourages reconciliation.</b></p>	<p>DV intervention programs typically do not distinguish between a one-time couple disagreement and severe physical violence; thus intrusive DV programs serve to escalate minor partner conflict.</p> <p>The safest place for men and women is in the intact family.<sup>36</sup> DV programs should seek to support the intact family whenever possible.<sup>37</sup> But VAWA-funded program policies<sup>38</sup> and state laws<sup>39</sup> actually discourage or prohibit couple counseling and mediation.</p>
<p><b>5. VAWA fosters sex-based discrimination.</b></p>	<p>The Omnibus Crime Control and Safe Streets Act of 1968, as amended, prohibits discrimination on the basis of sex. In 2005 Congress added the following requirement to VAWA: “Nothing in this title shall be construed to prohibit male victims of domestic violence, dating violence, sexual assault, and stalking from receiving benefits and services under this title.”<sup>40</sup></p> <p>Despite this provision, the DoJ continues to employ discriminatory language in its grant program titles (e.g., Grants to Reduce Violence Crimes Against Women on Campus” and grant solicitations (e.g., “entities engaged in violence against <i>women</i> activities”).<sup>41</sup> As a result, male victims continue to be subjected to widespread discrimination.<sup>42</sup></p>
<p><b>6. VAWA promotes half-truths, myths, and falsehoods about domestic violence.</b></p>	<p><i>Findings:</i> Most of the Findings in the VAWA law are one-sided, misleading, or false.</p> <p><i>Training and Education:</i> VAWA-funded training and education programs often lack balance and factual accuracy, routinely depicting men as aggressors and women as victims. That bias is so widespread that it is believed to be undermining civil liberties and prejudicing the even-handed administration of justice.<sup>43</sup></p>

	<p><i>National Institute of Justice Evaluations:</i> Most domestic violence evaluations conducted by the DoJ National Institute of Justice substantially downplay, or ignore altogether, male victims of domestic violence.<sup>44</sup></p> <p>That violates Congressional intent, and also violates 28 CFR 46.111(3), which requires DoJ-funded research to assure “equitable” selection of research subjects.<sup>45</sup></p>
<p><b>7. VAWA encourages immigration fraud.</b></p>	<p><i>Immigration:</i> VAWA amends the Immigration and Nationality Act so illegal aliens can obtain permanent residency, work permits, and U.S. citizenship from the Citizenship and Immigration Service by making an accusation of domestic violence, even if the allegation is unsubstantiated.<sup>46,47</sup></p> <p>VAWA guarantees free legal services to immigrants who make a claim of abuse. In effect, this gives a strong legal advantage to an illegal immigrant over a U.S. citizen.<sup>48</sup></p> <p>VAWA confidentiality provisions preclude the ability of a U.S citizen falsely accused of domestic violence to present exculpatory evidence to immigration authorities or to present evidence of immigration fraud committed by a person who “self-petitions” the CIS.</p> <p><i>International Dating Organizations:</i> The International Marriage Brokers Regulation Act (Sections 831-834 of VAWA) requires that international match-making organizations collect extensive criminal background information for every prospective client. This assumes that all clients of these agencies represent a threat to foreign nationals, and represents a violation of the notion of “innocent until proven guilty.”<sup>49</sup></p>
<p><b>8. VAWA programs lack accountability and allow wasteful use of taxpayer dollars.</b></p>	<p>Auditors have documented a long-standing pattern of financial mismanagement of VAWA-funded programs.</p> <p>The Government Accountability Office has repeatedly documented shortcomings in program oversight by the OVW, including “inconsistent documentation and the lack of systematic data,”<sup>50</sup> poor quality evaluations that “raise concerns about whether the evaluations will produce definitive results,”<sup>51</sup> and lack of program utilization data that would be “consistent and reliable enough for analysis of the specific information required.”<sup>52</sup></p> <p>Likewise the DoJ Office of the Inspector General has documented widescale financial mismanagement, both by recipients of OVW grants<sup>53,54,55</sup> and by the Office on Violence Against Women itself.<sup>56</sup> More than a year after the irregularities were identified, the problems remained unresolved.<sup>57</sup></p> <p>Finally, reports have been received of embezzlement of VAWA funds<sup>58</sup> and falsification of federal financial reports.<sup>59</sup></p>

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