

Widespread Civil Rights Violations Under the Violence Against Women Act

Partner abuse is an important social problem, and domestic violence programs have helped many needy individuals. But many believe that the Violence Against Women Act is at the root of widespread civil rights violations of millions of innocent Americans.

These complaints come from a broad range of groups:

Independent Women's Forum: "Men may become alienated from and hostile to the system in the conviction that it is stacked against them."

Ms. Foundation for Women: "Some women are arrested as a result of false accusations by their batterers."

Eagle Forum: "VAWA funds the re-education of judges and law enforcement personnel to teach them...how to ride roughshod over the constitutional rights of men."

How does the Violence Against Women Act – and the 1,500 state laws it has spawned -- violate the civil rights of Americans?

Judicial Education

VAWA funds the training of judges and law enforcement personnel. These programs are often biased and factually-misleading.ⁱ

In one New Jersey program, a judge dispensed this advice: "Your job is not to become concerned about all the constitutional protections of the man that you're violating as you grant a restraining order. Throw him out on the street, give him the clothes on his back, and tell him, 'See ya' around.'"ii

Restraining Orders

VAWA-funded training programs encourage judges to grant restraining orders. Now, 2-3 million restraining orders are issued each year.ⁱⁱⁱ About 15% of these orders are issued against women.

In most states, domestic violence is defined so broadly that almost anything qualifies as "abuse." A study by the Massachusetts Trial Court found that less than half of the domestic orders involved even an *allegation* of physical violence. Attorneys say judges treat temporary restraining orders like a rubber-stamping exercise and that subsequent hearings are often a "sham."

Harry Stewart, a lay minister in Weymouth, Mass., opened the door of his ex-wife's apartment building to help his 5-year-old son get inside. That was considered a technical violation of the restraining order. Stewart was required to serve a six-month jail sentence.

Arrest Policies

As a result of VAWA, 22 states have mandatory arrest laws for domestic violence, and 8 states that encourage arrest. Such laws often pressure police officers to ignore basic legal considerations of probable cause.

Research shows over half of all partner aggression is mutual.^{iv} But VAWA discourages dual arrests, even when both persons show signs of injury.

Further aggravating the problem is VAWA's promotion of "primary aggressor" laws.^v Now, 24 states have primary aggressor laws, which in practice become a form of gender profiling.

Former New England Patriots linebacker Ted Johnson was arrested for allegedly assaulting his wife. But a week later, his wife had a different story to tell: "My husband, I adore him, and, it was my fault," explained Jackie Johnson. "It breaks my heart to think I would be responsible with one emotional, irresponsible call in destroying this beautiful man's reputation."

Adjudication

Adjudication procedures for domestic violence cases often give short-shrift to due process protections.

For example under a "Fast Track" system used in Colorado, persons charged with domestic violence are not allowed legal representation. As one female defendant put it, "It ain't about justice, that's for sure."¹

In Warren County, Pennsylvania, persons arrested on a charge of domestic violence are given two options: Go to jail, or sign a pre-printed form that says, "I have physically and emotionally battered my partner." The procedures eliminate any possibility the defendant will be adjudged as innocent.

“Innocent until proven guilty” has been replaced with “guilty with no opportunity to prove innocence.”

Services for Male Victims

Research has consistently shown that women are just as likely – or even more likely -- to commit domestic violence as men.

Yet men represent less than 5% of persons who receive VAWA-funded victim services. So in 2000 the U.S. Senate directed the Department of Justice to “ensure that men who have been victimized by domestic violence and sexual assault will receive benefits and services” under VAWA.^{vi}

Despite that mandate, men who seek VAWA-funded services continue to be met with ridicule, hostility, and outright rejection. One director of a Washington state shelter admitted, “Whenever I speak of male abuse, I am met with disbelief and, even worse, laughter.”^{vii}

Families and Children At Risk

Allegations of domestic violence are made in the context of a divorce proceeding. Analysts say a large number of those allegations are made simply to gain a legal edge.

Elaine Epstein, former president of the Massachusetts Bar Association, once noted, “Everyone knows that restraining orders and orders to vacate are granted to virtually all who apply...In many cases, allegations of abuse are now used for tactical advantage.”

When children are removed from daily contact with one of their parents – usually their father – they are placed at far greater risk of child abuse, academic difficulties, and legal problems.

The Intrusion of State Power

The Violence Against Women Act was originally conceived with good intentions – to reduce partner violence. But over time, VAWA’s ability to intervene in every marital dispute and impose criminal penalties for even minor incidents has left millions of innocent Americans caught up in a system that ignores their rights, their wishes, and their needs.

The American Coalition for Fathers and Children says, “Americans’ most fundamental constitutional protections and human rights are violated openly, intentionally, and systematically.”^{viii} The Ms. Foundation for Women sums up the problem this way: “Unfortunately, when state power has been


invited into, or forced into, the lives of individuals, it often takes over.”^{ix}

Time to Reform VAWA

The intrusion of the government into the affairs of families and couples and the criminalization of private activity lies at the heart of civil rights abuses of the Violence Against Women Act.

It’s hard to think of any other law that has cost the American taxpayer so much, has led to the break-up of so many families, has violated the civil rights of so many innocent citizens, and has done so little to help women.

Reform of the Violence Against Women Act is overdue.



Respecting Accuracy in Domestic Abuse Reporting

RADAR is spearheading the VAWA Reform Coalition, a group of organizations around the country that is working to educate the public about VAWA abuse:

www.mediadar.org/docs/VAWA-Reform-Coalition-Declaration.pdf

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ⁱ RADAR: Bias in the judiciary: The case of domestic violence. Rockville, MD: Respecting Accuracy in Domestic Abuse Reporting. 2006.

ⁱⁱ Bleemer R. N.J. judges told to ignore rights in abuse TROs. New Jersey Law Journal April 24, 1995.

ⁱⁱⁱ RADAR: Without restraint: The use and abuse of domestic restraining orders. Rockville, MD: Respecting Accuracy in Domestic Abuse Reporting. 2006.

^{iv} Straus MA. Dominance and symmetry in partner violence by male and female university students in 32 nations. May 23, 2006. Table 2. <http://pubpages.unh.edu/~mas2/ID41E2.pdf>

^v RADAR: Justice denied: Arrest policies for domestic violence cases. Rockville, MD: Respecting Accuracy in Domestic Abuse Reporting. 2006.

^{vi} Congressional Record, October 11, 2000, pp. S10191-92.

^{vii} RADAR: VAWA programs discriminate against male victims. Rockville, MD: Respecting Accuracy in Domestic Abuse Reporting. 2006.

^{viii} American Coalition for Fathers and Children: Family violence in America: The truth about domestic violence and child abuse. Washington, DC, 2006.

^{ix} Ms. Foundation for Women: Safety and justice for all. New York, NY, 2003.