



**Joint Testimony of Karen Cheeks-Lomax and Jane Aoyama-Martin**

**Public Hearing on Proposed Amendments to New York State Matrimonial  
Law to Add Post-Marital Income Guidelines**

**Before the: Senate Standing Committee on Judiciary  
Senate Standing Committee on Crime Victims, Crime and Corrections  
New York State Senate Majority Task Force on Domestic Violence**

**Thursday, May 6, 2010**

Good afternoon. My name is Karen Cheeks-Lomax and I am the Executive Director of My Sisters' Place, and this is Jane Aoyama-Martin of the Pace Women's Justice Center.

My Sisters' Place is Westchester County's largest provider of services to survivors of domestic violence. Since its formation in 1978, it has become a cutting edge leader and resource in the field of domestic violence advocacy and services. Our programs include two residential shelters, individual counseling, advocacy, children's programs, support groups, life skills training, school-based domestic violence prevention education and outreach.

Since 1997, My Sisters' Place has also supported a Legal Center, which has grown to nine attorneys and four legal advocates who provide a broad array of legal services, outreach and education on family and immigration law matters to low income domestic violence victims throughout Westchester. Since 1991, the Women's Justice Center has grown to 16 attorneys and an extensive network of volunteers who provide direct legal representation, training and outreach.

The Women's Justice Center is a highly respected, multi-faceted legal services center at Pace University School of Law in Westchester County. The Center's mission is to end abuse by providing innovative legal programs including direct legal representation for victims and survivors of domestic violence and elder abuse, specialized training, community education and outreach.

Domestic violence cuts across all economic groups and Westchester County, an economically diverse community, is no exception. Our clients range from individuals who are economically disenfranchised to the non-monied spouses of wealthy doctors and financiers.

The Legal Center at My Sisters' Place represents clients in family court matters in the areas of immigration, custody, visitation, orders of protection and child and

spousal support. We provide legal services to over 1,200 victims of domestic violence each year and including direct representation to 300 victims of domestic violence.

The Women's Justice Center serves over 2,800 victims and survivors of domestic violence and elder abuse in Family and Supreme Court matters involving protective orders, custody/visitation, support, divorce, and other matters arising from the abuse. In addition to its direct legal services and training programs, the Center sponsors a Family Law Lecture Series, a Moderate Means Divorce Panel, Elder Law Clinics, Sexual Assault Trainings, and a Legal Helpline that receives over 2200 calls/year.

On behalf of our clients in Westchester, as well as all the victims who come to us who we cannot help, we are here today to support post-marital income guidelines. We believe that the proposed legislation for post-marital guidelines would significantly improve the likelihood that domestic violence victims will be able to realize genuine freedom from their abusive ex-husbands.

The current system offers no clear guidelines to one's entitlement to spousal support. Rather, there is just a list of complicated factors, which means that if a

divorcing spouse wants – or needs – to pursue maintenance, she must hire an attorney and litigate. This is a heavy burden on anyone, but to a domestic violence victim without financial resources, it is nearly impossible.

To gain any maintenance, the victim, who has already been disempowered emotionally, physically and usually financially, will face protracted litigation that is often expensive, painful, time-consuming, and far from certain. Abusers are not rational. Quick and reasonable settlements are unusual. Instead, abusers tend to be being obstinate and force unnecessary litigation as a way to demonstrate their power and control over their victims. Thus, the courts become another tool for their abuse.

It is an understatement to suggest that victims of domestic violence have difficulty leaving an abusive relationship. Financial security is one of the best ways that victims can ensure a safe separation. Yet, separation often causes greater financial insecurity.

Extensive research by Drs. Lundy Bancroft and Jay Silverman both renowned experts on trauma and domestic abuse, have established that divorced and separated abusers have more financial resources than their former partners,

especially in the period immediately following separation. This financial advantage can make it possible for abusers to not only hire a more experienced and skilled attorney, but also to spend money on discovery, depositions, motions, hearings and trials. During the course of their research, Bancroft and Silverman received many reports from battered mothers of settling cases on terms that they considered detrimental to their children because they could not amass the resources to pay for litigation.

Our experience mirrors these research findings. Abusers take advantage of the substantial inequities in the court system and the lack of guidelines in the area of spousal support to gain financial advantages. We routinely see abusers using the legal system to abuse their wives.

We receive hundreds of calls from women who want to leave abusive husbands, but who first need to understand the financial ramifications. Our callers ask whether or not they will be able to financially care for themselves and their children and often this is the deciding factor in their ultimate decision to leave or stay in a violent relationship. As Drs. Lundy Bancroft and Jay Silverman have also concluded, domestic violence is an important cause of homelessness for women and children. The risk of becoming destitute is very real for these survivors.

Unfortunately the law does not help. We advise clients as best we can about the relevant factors and the legal process for seeking spousal support, but the lack of clear guidelines often leaves victims confused and more afraid of the unpredictable outcomes. Because My Sisters' Place and the Pace Women's Justice Center, have limited resources we are unable to offer further help on these important economic issues. We accept cases seeking orders of protection and those that bear on children, including custody, visitation, and child support – but unfortunately we have limited resources to litigate spousal support or contested matrimonial matters. Sadly, in Westchester County we know of few free or low cost legal services providers where we can refer clients.

Well intentioned people sometimes ask, “Why can't she just get a job and support herself?” This view fails to appreciate the real impact of the controlling behavior and abuse on the victim.

An abuser seeks to isolate his victim from family, friends and colleagues. To increase her isolation and maintain control over her, the abuser will often actively prevent her from working outside the home. Then, when a victim separates from her abuser, she often finds herself cut off from the little financial support and resources previously available to her. In fact, a number of the calls we receive are

from women who have already attempted separation and found themselves in worse circumstances because they were unable to support themselves financially. In such cases, women who leave their abusers place themselves at greater risk for more abuse and poverty. Most of the time, a child support award is simply not enough to support the victim and her children. The vast majority of cases our agency sees involve clients who are in need of child or spousal support and, often, both.

According to the US Department of Labor, an average married women's income is typically only 35% of the total household income, a percentage which has increased only slightly in the three and a half decades since 1970. The disparity is a function of the still-common traditional division of labor within most marital partnerships. Women continue to do the bulk of unpaid labor in the home, both housework and child care, even when they work in the paid labor force. This disparity is exacerbated for victims of domestic violence.

We receive hundreds of calls each year from women seeking uncontested divorces, half of whom give up any claims to spousal support because they cannot afford an attorney to litigate the issue. In short, the current statutory scheme makes it so

difficult to obtain and enforce spousal support orders that we routinely see victims of domestic violence pay for physical safety by sacrificing financial security.

Under the proposed post-marital income guidelines, the proof needed to win a post-separation maintenance award is simple. Claims can be made even in uncontested divorces. Victims of domestic violence seeking a divorce would not be forced to compromise their economic security. Poor or moderate income victims would have greater access to the courts.

Until these spousal support guidelines are enacted, victims of domestic violence will continue to find themselves at a substantial disadvantage in New York State when trying to separate from an abuser. We ask you to consider everyone's testimony today and help protect our clients and their children by supporting this important legislation.

Thank you.