

February 25, 2010

Clerk of Court
United States Supreme Court
Washington, D.C. 20543

Dear Clerk of the United States Supreme Court,

The Iowa Coalition Against Domestic Violence supports the civil protective order law that empowers protected parties to bring criminal contempt charges without the involvement of a prosecutor. In Iowa such a law has provided security and autonomy to victims of domestic violence, and this right is vital to the successful enforcement of civil protective orders and the safety of battered women.

The Iowa Coalition Against Domestic Violence (ICADV) is a non-profit organization, incorporated in the state of Iowa in 1985. ICADV provides educational and technical assistance to the 27 domestic violence member programs across Iowa, and also acts on a statewide and national level to promote public policy and legislative issues on behalf of battered women and their children. ICADV's purpose is to eliminate personal and institutional violence against women through support to programs providing safety and services to battered women and their children. In addition to our work with local programs, ICADV provides direct service through the MUNA Legal Clinic, advocating for immigrant victims of domestic violence, and the Skylark Project, providing comprehensive services to incarcerated survivors.

Through direct service work with clients and technical assistance calls, ICADV remains intimately aware of the need for civil protective orders and enforcement. When representing clients in need of adjusted immigrant status, the MUNA Legal Clinic helps many clients each year petition for civil protective orders and pursues criminal contempt charges if defendants violate the orders. Member domestic violence programs statewide call ICADV every day looking for advice and support on a variety of issues, including civil protective orders. All ICADV staff train to understand these issues and provide accurate advice.

Iowa code section 664A.7(1) states, "Violation of a no-contact order issued under this chapter or a protective order issued pursuant to chapter 232 [Juvenile Justice], 236 [Domestic Abuse], or 598 [Dissolution of Marriage], including a modified no-contact order, is punishable by summary contempt proceedings."

Code section 664A.7(5) states, "Violation of a no-contact order entered for the offense or alleged offense of domestic abuse assault . . . or a violation of a protective order . . . constitutes a public offense and is punishable as a simple misdemeanor. Alternatively, the court may hold a person in contempt of court for such a violation, as provided in subsection 3."

Inherent in the language of Iowa code section 664A.7, battered women under civil protective orders can bring criminal contempt charges against defendants who violate the terms of the court order. Protected parties may call the police and trigger mandatory arrest policies, or they can petition the court independently to begin criminal contempt proceedings. The protected party is then in control of the court case. She can bring witnesses, present evidence, and ask her abuser under oath to account for his behavior. The protected party retains power over whether the contempt charges are lowered or dropped, rather than giving that power over to the county prosecutor. This process is vital to the safety and empowerment of battered women in Iowa.

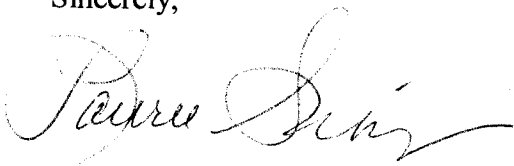
There are simply too many criminal contempt cases every year for county prosecutors to effectively handle alone. Iowa courts grant hundreds of civil protective orders every year, and defendants violate those orders frequently. Though some county prosecutors' offices make a special effort to have their attorneys pursue criminal contempt proceedings, most cannot devote the necessary time and manpower. In a rural state like Iowa, county prosecutors' offices are small and underfunded, so resources are spread thin without adding the hefty burden of prosecuting every civil protective order violation. Prosecutors would have difficulty preparing for hearings within the required window of time, five to fifteen days after charging. Protected parties would have to coordinate with additional people – prosecutors and victim witness coordinators – in order to get their cases before a judge. Without independent enforcement by protected parties, many civil protective order violations would slip through the cracks unremedied.

Additionally, by enabling a protected party to press criminal contempt charges on her own behalf, Iowa law gives power and autonomy back to a battered woman. After suffering abuse, degradation, and demoralization at the hands of her abuser, a woman can take back control of her life and punish her abuser if he tries to hurt her again in violation of a civil protective order. Unlike criminal charges handled by the prosecutor's office, when a protected party brings criminal contempt charges, she's in charge of how the case proceeds. She controls whether the charges are dropped, so she doesn't have to worry that the defendant may plead to a lower charge. She confronts him in court and directs questions to hold him accountable for breaking the law. A battered woman can regain autonomy over her life by taking control of her safety.

The Iowa law also deals fairly with defendants who violate civil protective orders. The defendant receives notice and a hearing where he has an opportunity to take the stand, confront his accuser, and state his side of the story. Because contempt findings result in mandatory jail time, the court appoints an attorney if the defendant cannot afford to pay his own representation. Iowa law also explicitly prohibits charging the defendant twice for the same action, stating in code section 664A.7(6), "A person shall not be held in contempt or convicted of violations under multiple no-contact orders, protective orders, or consent agreements, for the same set of facts and circumstances that constitute a single violation." Thus, the defendant cannot face charges by both the prosecutor and the protected party for the same act; he is protected from double jeopardy.

We have seen firsthand how Iowa civil protective order laws and the enforcement of criminal penalties impact the lives of domestic violence victims. When these women are empowered to stand up for themselves and take control of their legal rights, they feel safer and stronger. They know they can rely on themselves as well as the court system. The ability of protected parties to bring criminal contempt charges when defendants violate civil no contact orders is vital to the safety of battered women in Iowa and everywhere.

Sincerely,

A handwritten signature in cursive script, appearing to read "Laurie Schipper". The signature is fluid and extends to the right with a long, sweeping tail.

Laurie Schipper
Executive Director
Iowa Coalition Against Domestic Violence