

Women's Law Project

30 *Years of Changing Laws
Changing Policies
Changing History*

Newsletter Fall 2003

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For 30 years, the **Women's Law Project** has changed history and transformed our future. From its modest office on Ninth Street in Philadelphia to its new branch office in downtown Pittsburgh, its staff has toppled barriers and broken traditions that held women back.

For 30 years, the **Women's Law Project** has led the charge in advancing and protecting women's rights:

- ☑ when married women couldn't get credit in their own names;
- ☑ when legislators vowed to make Pennsylvania the first state to ban all abortion;
- ☑ when the only vocational training for women prisoners was cake decorating;
- ☑ when \$18 million of child support was taken away from 36,000 poor women and children;
- ☑ when insurance companies refused to cover domestic violence victims because of their "lifestyle choices;"
- ☑ when drug and alcohol treatment facilities would not treat pregnant women;
- ☑ when anti-choice forces threatened to close down every women's clinic in southeastern Pennsylvania;
- ☑ when a Lancaster County judge shut the courthouse door in the faces of twin boys whose lesbian mothers wanted to adopt them;
- ☑ when Philadelphia police shelved one out of every three rape complaints;
- ☑ when female referees were kept off the basketball court and female golfers were not allowed to tee off.

From fighting a welfare system that endangers the lives of abuse survivors to reforming the hostile maze of Family Court, the **Women's Law Project** courageously takes on tough cases, complex system reform, and intractable powers-that-be. With a staff rarely numbering more than ten, the Law Project harnesses the energies of thousands of volunteers and leverages its scarce resources to achieve a profound impact on millions of women's lives.

Today, thirty years after our inception, we continue to be the vanguard for women and families throughout Pennsylvania and beyond – changing oppressive laws and policies into tools of liberation, thereby changing history and transforming our future.

30 Years of Action

CALL TO ACTION: WLP Issues Domestic Relations Report

The Women's Law Project recently published *Justice in the Domestic Relations Division of Philadelphia Family Court: A Report to the Community*. Widely hailed as a long-overdue exposé of the complexities, challenges, and troubling conditions of the Domestic Relations Division, the report is the culmination of two years of research, including over 700 direct observations of court proceedings, comprehensive review of substantial information collected from consumers and lawyers, and in-depth analysis of funding and budgeting issues. The findings were shocking.

Why was this project initiated? For over 25 years, our Telephone Counseling Service (TCS) has provided information to thousands of callers each year, helping them negotiate family law proceedings without legal representation. Through TCS, we have heard accounts from women who have had tremendous difficulties navigating the domestic relations judicial process and shockingly negative experiences trying to present their cases. The callers are confused, angry, and sometimes in danger. Despite our efforts to assist women in learning how to represent themselves, as well as our (and other public interest groups') engaging in advocacy – and sometimes even litigation – to address the most egregious systemic problems, the overall experience of families served by this Court remains one characterized by frustration, confusion, and powerlessness. We realized that, in order to truly understand the root of these problems, we needed to understand the reality of the system itself.

What we found:

- gross under-funding;
 - unreliable public access;
 - enormous caseloads; and
 - extremely short hearings.
- The Domestic Relations Division, located at 34 S. 11th Street:
- is in a building that is too small;
 - is difficult to navigate; and
 - is unsafe.

The most disturbing finding relates to the inadequacy of funding. This fact is *so central* to the operations of the Court that it *significantly* undermines the Court's ability to execute its responsibilities to standard in the other areas of performance.

Special thanks to Signe Wilkinson for permission to reprint this cartoon.

Our recommendations:

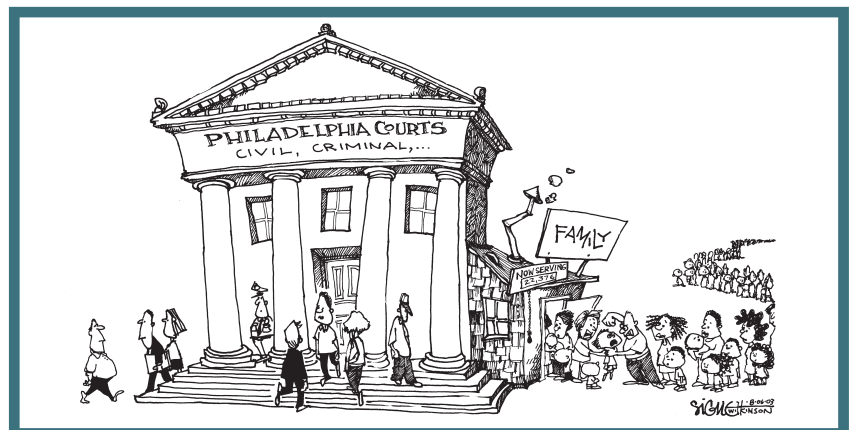
Short Term

- ☑ Accountability for resource allocation is fundamental;
- ☑ the constitutional mandate of open court must be fulfilled;
- ☑ security must be increased; and
- ☑ information that will help pro se litigants navigate the proceedings must be available and understandable. In addition, the court should monitor itself, using the Trial Court Performance Standards as criteria by which to measure performance, and provide more public reporting and accountability for its budget, scheduling, and timeliness.

Long term

- ☑ It is crucial that a long-term *strategy and comprehensive plan* be developed. The Court is urged to engage key stakeholders in this process, including members of the public interest legal community and the Philadelphia Bar Association, as well as the community at large.

Tens of thousands of families come to this Court each year to resolve personal and intimate family matters involving divorce, child support, child custody, and domestic violence (88,000 *pending* cases at the beginning of 2002, with an *additional* 54,000 cases filed during 2002). Profound and life-altering decisions are made in this Court about the future and safety of families, yet proceedings take place under conditions that should be unacceptable and intolerable to the public, the judiciary, and the bar in the 21st century. The Philadelphia Bar Association passed a resolution in support of the report, the *Philadelphia Daily News* wrote an editorial praising it, and an accompanying editorial cartoon succinctly illustrated its findings. The full report, including methodology and standards, is available on the WLP website.



Jane Doe v. Penn State University

The Women's Law Project settled a sexual harassment lawsuit it filed against Penn State University on behalf of a female student who was sexually assaulted and, after reporting the assault, was harassed to the point that she was forced to withdraw from the school. David F. Abernethy of Drinker Biddle & Reath LLP co-counseled the case with WLP.

The suit charged PSU with failing to respond appropriately to the student's pleas for help. The plaintiff brought

the lawsuit in order to improve PSU policies so that future student victims would be protected from harassment and not have to drop out of school. The settlement provides a process for achieving that goal. The parties have constituted a three person panel of outside experts to carefully evaluate PSU's policies and to make recommendations to improve PSU's response to student reports of sexual assault or reports of harassment following such an assault. The report and recommendations will be made public after review and comment by the parties.

Brady v. Sacred Heart University

The Women's Law Project represented Tara Brady in a Title IX lawsuit against Sacred Heart University claiming that Sacred Heart discriminated against her on the basis of pregnancy. Tara Brady was a former starting center for the Sacred Heart women's basketball team. In a joint statement released in October 2003, Tara Brady and Sacred Heart announced the settlement of the lawsuit.

SHU admitted no wrong-doing, but did agree to clarify its existing policy prohibiting all discrimination on the basis of sex and include the clarifications in both its student handbook and Athletics Policies and Procedures Manual. According to C. Donald Cook, Sacred Heart's Director of Athletics, "These policies have been in place, but previously were found in other University resources." According to Sacred Heart's existing policy, a student-athlete who becomes incapacitated during a season of athletics, including a pregnant student, is eligible, pursuant to NCAA rules and regulations, to apply for a Hardship Waiver. This status does not affect the student's scholarship, academic enrollment, or team

status for that season. Student-athletes unable to compete due to incapacitation occurring outside the season of competition are also entitled to remain members of their team, retain their athletic scholarship, and remain enrolled at Sacred Heart. A student-athlete who does not compete during a season of competition or who receives a Hardship Waiver retains his or her eligibility to play his or her sport in future years. "We are happy to provide our students with a more complete Student-Athlete Handbook, one that details procedures relating to existing policies we have had in place," said C. Donald Cook. Happy that the settlement accomplished her goals, Ms. Brady said, "I brought this lawsuit so I could complete my interrupted education and so that students in the future would know their rights."

Hope Comisky, a partner at Pepper Hamilton LLP in Philadelphia and WLP board member, and Ruth Pulda, with Livingston, Adler, Pulda, Meiklejohn & Kelly in Hartford, joined the Women's Law Project as co-counsel in this case.

In re Guardianship of J.D.S.

Women's Law Project takes on Gov. Jeb Bush

Should women with disabilities have the same freedom to make medical treatment decisions as other women?

Should pregnant women have the same privacy rights as people who are not pregnant?

The Women's Law Project represents two advocacy organizations for people with disabilities in *In re Guardianship of J.D.S.*, a case in the Florida District Court of Appeals for the Fifth Circuit involving the reproductive rights of a disabled pregnant woman.

When this lawsuit was filed, J.D.S. was about six months pregnant as the result of a rape at the group home in Florida where she lived. A mentally and physically disabled 22-year-old, J.D.S. relied on a court-appointed guardian to make her medical treatment decisions for her. It was the guardian's responsibility to determine what medical care J.D.S. herself would choose if she were not incapacitated.

The lawsuit arose when Jennifer Wixtrom, a stranger to J.D.S., filed a petition in the Florida courts to get herself appointed the guardian of J.D.S.'s fetus. Finding that there was absolutely no basis in Florida law for such a

Under the federal Hyde Amendment, Medicaid pays for abortions only in the narrow circumstances of rape, incest, and when a woman's life is in danger. While the WLP has deplored the measure since its enactment in 1976 for unfairly restricting low-income women's access to abortion, we have also remained committed to taking advantage of the exceptions the law carves out. We have partnered with CHOICE and the Greater Philadelphia Women's Medical Fund to ensure that women who are victims of rape or incest or whose lives are in danger benefit from the federal assistance to which they are entitled.

The WLP intervened on behalf of a 12-year-old rape survivor who was almost denied an abortion because her mother's HMO refused to believe that the incident had been properly 'reported.'

Over the past year alone, the WLP intervened on behalf of more than 18 individual women throughout Pennsylvania who fit the criteria entitling them to Medicaid coverage of their abortions. The range of horrific circumstances facing these women spanned the gamut of a 12-year-old rape survivor who was almost denied an abortion because her mother's HMO refused to believe that the incident had

been properly "reported;" to another raped woman's denial of coverage because her Medicaid HMO mistakenly believed that the certification of the incident came from the "wrong" physician; to refusal of payment for a despondent, suicidal woman's abortion because the threat to her life was deemed psychological and not physical. We also intervened on behalf of a destitute woman living in a remote rural area who had missed her initial appointment for a procedure because her partner abandoned her upon discovering that she had been raped, leaving her with no money, no transportation, and absolutely no means of securing access to a healthcare provider. Without the intervention of the Women's Law Project, each of these women would have been denied their right to a publicly-funded abortion.

In addition to providing direct assistance to women in dire predicaments, we also launched a successful public education campaign. Recognizing the fundamental need to educate women on their rights, WLP and our allies co-wrote brochures that inform women about the circumstances under which Medicaid assistance is available. By distributing these brochures to every rape crisis center in Pennsylvania, as well as hospital emergency rooms, our entire pro-choice network, and numerous social workers, guidance counselors, and nurses, we know we are reaching women near and far, including areas as remote as central Appalachia. We plan to continue these efforts with even greater intensity in the coming year. As a result of this project, we are making immense progress in ensuring that those women entitled to Medicaid abortions have awareness of and actual access to them.

Continued from the previous page

thing as a fetal guardian, the trial court rejected the petition. But Wixtrom appealed, and Governor Jeb Bush joined her, submitting a 'friend of the court' brief in support of the fetal guardianship request.

At first, it appeared that the purpose of the fetal guardianship petition was to prevent J.D.S. from getting an abortion, but Wixtrom and Governor Bush pursued their appeal even after J.D.S.'s guardian had decided that J.D.S. would carry the pregnancy to term. Wixtrom and Bush wanted the right to interfere with J.D.S.'s every choice—right down to what kind of vitamins she should

be taking and how much exercise she should be getting. If they prevail in J.D.S.'s case, it would be a short step in either direction to policing every woman's pregnancy or stripping disabled women of all of their autonomy.

On behalf of the Advocacy Center for Persons with Disabilities and the American Association of People with Disabilities, the WLP submitted a brief discussing the impact this case could have on women with disabilities and pregnant women generally. We are pleased to report that, while the court has been deliberating, J.D.S. has had her baby—without a fetal guardian's interference.

Special Victims Unit

For the past three years, the Women's Law Project has been a catalyst in improving the handling of sex crimes by the Philadelphia Police Department, particularly its Special Victims Unit (SVU), which investigates all sexual assault and child abuse cases. The Women's Law Project joined Mayor John Street and Police Commissioner Sylvester Johnson at a ribbon cutting ceremony on September 24th which unveiled a brand new facility dedicated to meeting the unique needs of the victims of these types of cases. Mayor Street credited WLP advocacy efforts for this new location and concomitant changes in policy and procedure.

Over the past three years major changes have occurred in the Special Victims Unit:

- ☒ *A new, \$2.2 million, 18,000 sq. ft. SVU facility was opened on the Episcopal Hospital campus on September 24, 2003;*
- ☒ *Significantly more specially trained investigators and personnel have been hired;*
- ☒ *Vital changes in coding and practice were implemented; and*
- ☒ *A process of on-going advocates' review of case files was instituted.*



Carol Tracy, Executive Director-WLP with Inspector Joseph M. Mooney (left) and Capt. John Darby standing in front of the new Special Victims Unit.

city departments and services working with domestic violence testified. Their testimony presented such startling information regarding the level of need for improved services in Philadelphia that the Mayor has appointed a city-wide task force, *co-chaired by WLP Executive Director Carol Tracy and Police Commissioner Sylvester Johnson*, to make recommendations for a coordinated community response to domestic violence.

At a press conference announcing the formation of the Task Force, Mayor Street described Tracy as a "persistent, insistent and incredibly skillful" advocate, who has earned "respect for her competence, integrity and commitment to social justice." Street noted that Philadelphia owes Tracy "a special debt of gratitude for the work she has done on issues concerning violence against women." The Task Force commences its work at a time when the city has experienced a rise in domestic violence homicides and receives over 80,000 calls for 911 assistance.

How did this major overhaul of the SVU happen?

- ☒ **Public information:**
The revelation by the *Philadelphia Inquirer* that thousands of rapes and other sex crimes had been downgraded to a non-criminal category, thereby eliminating a full and complete investigation of the crimes, was essential;
- ☒ **Public Accountability:**
City Council hearings by Public Safety Committee Chairperson, Councilman Angel Ortiz, were instrumental;
- ☒ **Citizen Advocacy:**
The Women's Law Project, Women Organized Against Rape, the Penn Women's Center, the Support Center for Child Advocates, and the Philadelphia Children's Alliance vigorously represented the women and children betrayed by the system, bringing crucial attention to these problems;
- ☒ **Institutional Leadership:**
The Philadelphia Police Department's accepting responsibility for prior mistakes and agreeing to corrective actions was fundamental to change; and
- ☒ **Funding:**
The City of Philadelphia stepped up to the plate and provided the money necessary to respond to the crisis and effectuate change.

A successful partnership of public agencies and non-profit advocacy groups collaborated to create a safer Philadelphia for women and their families.

Photo courtesy of The Philadelphia Inquirer/April Saul

Domestic Violence

Using the same tools that we used in reforming sex crime investigations, the **Women's Law Project** orchestrated City Council hearings in the winter of 2002 and the spring of 2003 at which all of the major

Please Join Us

*in celebrating the Women's Law Project's
30th Anniversary
at our Annual Party and Fundraiser*

Where: Marketplace Design Center,
2400 Market Street, Philadelphia

When: Friday, December 5, 2003, 5:45—8:00 p.m.

Cost: \$75 per person,
Children welcome and admitted free

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