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Aspiration and Implementation: County-Level Domestic Violence Programs in a Human Rights Context

Erratum

Sponsored by Joanna Kirk

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Madeline Reilly

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ABSTRACT

This paper analyzes and compares domestic violence policy and outcomes in municipalities in Western New York, specifically in two that have adopted resolutions recognizing freedom from domestic violence as a human right (Erie and Tompkins counties). These resolutions are based on the tragic story of Jessica Gonzales' children who were killed by her husband and the lack of due diligence by police on behalf of the Gonzales children. Through primary research with people who work in the domestic violence field in both counties, the impact of these similar resolutions is compared and contrasted. The pair of resolutions were found to be largely representative of a commitment to domestic violence issues in both counties, rather than instrumental in bringing about tangible programming.

INTRODUCTION

In 1999, Jessica Gonzales' three daughters were taken by her estranged husband and subsequently killed (ACLU, 2020). In the wake of this tragedy, Gonzales worked her way through the American justice system to the Supreme Court in order to prove that the police did not fulfill their due diligence. When the Supreme Court ruled against her, she then brought her case to the Inter-American Court of Human Rights. The Inter-American Court of Human Rights decision has since become the basis of a number of resolutions in municipalities in the United States affirming that freedom from domestic violence is a human right. The effectiveness of two such resolutions on domestic violence outcomes, from Erie and Tompkins County, New York, are analyzed. Phone interviews with individuals who work in the domestic violence sphere in each county, including a sheriff, a district attorney, and a victim services provider among others, represent primary

research on the impact of these resolutions eight years (in the case of Erie County) and six years (in the case of Tompkins County) after their passage.

Castle Rock v. Gonzales (2005), and Jessica Gonzales v. United States of America (2011)

The two resolutions of interest are based on two cases, *Castle Rock v. Gonzales* (2005), and *Jessica Gonzales v. United States of America* (2011). In the case of *Castle Rock v. Gonzales*, Jessica Gonzales' three daughters were taken by her husband, after he had violated an order of protection that Jessica had gotten against him by doing this (ACLU, 2016). The order required that the police arrest the husband if he did not obey the order (ACLU, 2020a). Gonzales called the police multiple times, yet they did not act on her requests for assistance (ACLU, 2016). Tragically, the three children were killed. The Supreme Court found that the police had filled their due process, interpreting a restraining order to not require that any action be taken by the police (*Castle Rock v. Gonzales* 2020). Jessica Gonzales petitioned the Inter-American Court of Human Rights (IACHR) (ACLU, 2014). "Two pivotal issues in the case were the affirmative obligations of law enforcement to respond to domestic violence and protect victims, and the United States' responsibility to provide a remedy when those obligations are not fulfilled" (Human Rights Institute, 2020). The court found that the United States had failed to protect Gonzales' human rights (ACLU, 2014).

Since the IACHR decision, thirty-five municipalities and counties in the United States have affirmed their belief that freedom from domestic violence is a human right by passing resolutions to this effect. Eleven of these county and town governments are in New York State (Cornell Law School, 2018). The adoption of the human rights-based domestic violence resolution "...served as a catalyst for collaboration between local government and communities and provided a model of unified protection and support for domestic violence survivors" (Advocacy Center of Tompkins County, et al., 2014). The resolutions analyzed here are those from the county governments of Erie County and Tompkins County, both in New York. These resolutions will be discussed after a brief consideration of the human rights framework in the context of domestic violence.

Human Rights Framework

Human rights ideas are not typically applied to domestic violence. One of the reasons for this is because women and men historically occupy different spheres in society. "In a very real sense, gender-specific abuses... have until recently been 'privatized' internationally and either go unchallenged or are left out of human rights practice altogether" (Thomas & Beasley, 1993, p. 58). Jessica Gonzales believed that the police's persistent beliefs about the severity of her situation impacted their (lack of) response to her children being taken from her. "If I had told them that a stranger had taken my daughters... then I think the reaction would have been different. But Simon was the girls' father, and the police saw this as a domestic issue, which was clearly not a

priority for them” (ACLU, 2020a). The “U. S. approaches to domestic violence have largely focused on remediation - interventions that take place after violence occurs” (Bettinger-López, Lapidus & Ward, 2014, p. 8). The human rights framework is employed in an attempt to target systemic domestic violence in a society by using a proactive, rather than reactive, response to domestic violence (Bettinger-López, Lapidus & Ward, 2014).

Comparison of resolutions from Erie and Tompkins Counties

The Erie County and Tompkins County resolution are similar, but it is important to recognize the language that was chosen for each of them. The following excerpts are quotations of the specific part of each resolution that includes the assertion that freedom from domestic violence is a human right. From the Erie County resolution in 2012:

Resolved, that this Honorable Body recognize that freedom from domestic violence is a fundamental human right and be it further resolved, that the Erie County Legislature commend the policies and actions of local and state police agencies that bear the primary responsibility of securing this fundamental human right on behalf of their citizens.

From a similar Tompkins County resolution in 2014:

Resolved, on recommendation of the Public Safety Committee, That the Tompkins County Legislature joins world leaders and leaders in the United States in recognizing domestic violence is a human rights concern and declares that freedom from domestic violence is a fundamental human right, resolved further, that the Tompkins County Legislature believes the state and local governments should continue to secure this human right on behalf of their citizens.

Both resolutions reference *Jessica Gonzales v. United States of America* (2005) from the IACHR. The Tompkins County resolution also referenced *Castle Rock v. Gonzales* (2011) and provided a summary of the events that led to the case. The Erie County resolution primarily focused on stating statistics relevant to the severity of domestic violence in the United States, whereas the 2014 Tompkins County Resolution, in addition to including such facts, also framed the adoption of the resolution as an opportunity to be a “leader in acknowledging and responding to the existence of domestic violence.” Prior to the passage of the resolution, a report was produced about its potential passage noted that Tompkins County could become a leader in this legal and social movement (Advocacy Center of Tompkins County et al., 2014). Deputy Brian Mohr from the Erie County Sheriff’s department attributed the creation of the Erie County Legislature Resolution primarily to Suzanne Tomkins, professor of law at University of Buffalo Law School and co-founder of the Women, Children, and Social Justice Clinic (University at Buffalo School of Law, 2020). It is important to note that

both resolutions originated in a semi-academic sphere, at University of Buffalo Law School and Cornell Law School.

Overview of demographics and domestic violence statistics for Erie County

919,866 people reside in Erie County (United States Census Bureau, 2020a). Erie County is characterized primarily as an urban county, with Buffalo, the second-largest city in New York State, as the county seat (Erie County Department of Health, 2019). The population of the city of Buffalo is 258,612, with a victim rate of 13.4 per 1,000, the nineteenth highest rate of domestic violence among cities and municipalities in New York State (Axelson, 2019). A total of 5,191 domestic violence cases were reported in 2018 in the whole of Erie County (New York State Division of Criminal Justice Services, 2018). Since the Erie County resolution passed, there does not seem to be any noticeable link between a marked change in the number of domestic violence cases and the passage of the resolution (*Figure 1*).

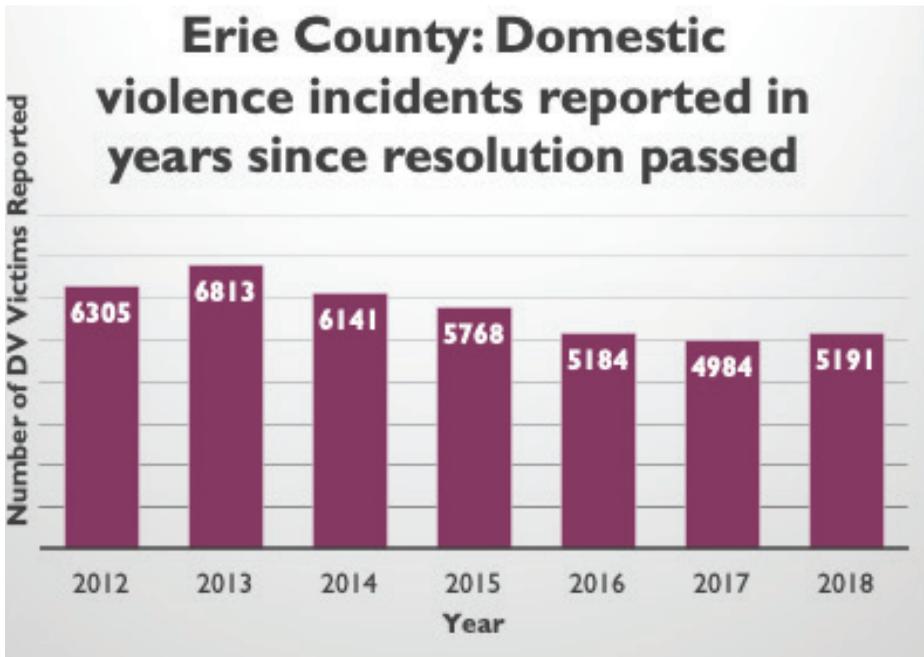


Figure 1: Domestic Violence Incidents Reported in Erie County in Years since Resolution Passed (Data taken from New York State Division of Criminal Justice Services, 2018).

Overview of demographics and domestic violence statistics for Tompkins County

Tompkins county has a population of 102,962 (United States Census Bureau, 2020b). Tompkins county is considered 58% urban (Tompkins County Health Department, 2010). A total of 249 domestic violence cases were reported in 2018 in the whole of Tompkins County (New York State Division of Criminal Justice Services, 2018). In

Tompkins County, there is no apparent link between domestic violence incidents and the passage of the resolution (*Figure 2*).

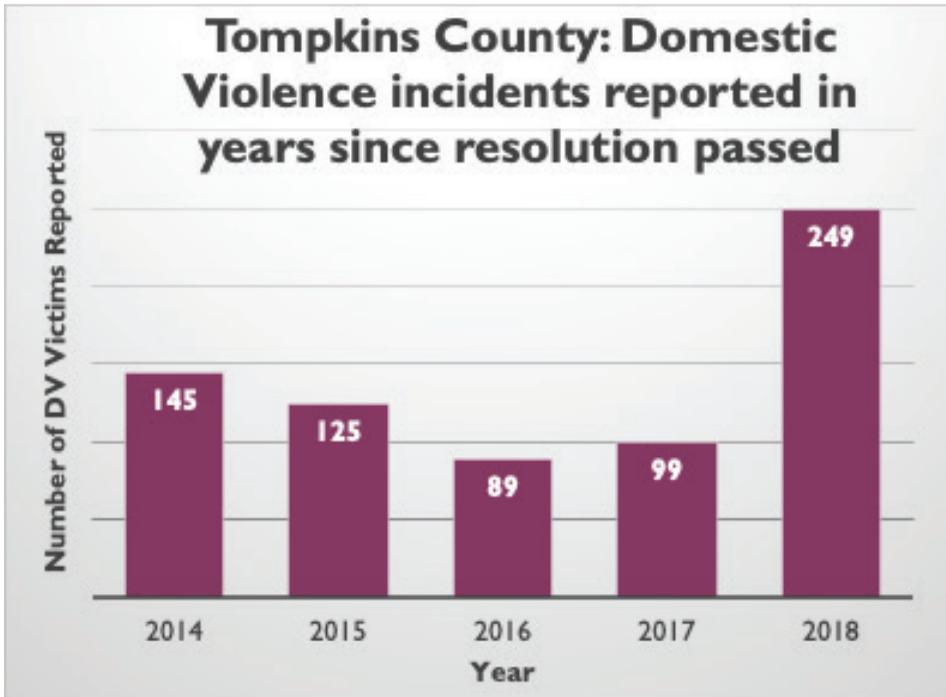


Figure 2: Domestic Violence Incidents Reported in Tompkins County in Years Since Resolution Passed (Data taken from New York State Division of Criminal Justice Services, 2018).

Personal Communications

I had the opportunity to speak with five individuals who work in the gender and domestic violence fields, three of whom were from Erie County and two of whom were from Tompkins County. I asked each of these individuals a list of semi-structured questions tailored to the particular sector of domestic violence they work in. Each person was asked whether or not they had perceived the resolution to have made an impact on domestic violence outcomes. The following is a summary of their responses.

Erie County Personal Communications: Erie County Sheriff Deputy Brian Mohr

Deputy Brian Mohr is the coordinator of the Domestic Violence Unit of the Erie County Sheriff's Department. Deputy Mohr stated that the Erie County Coalition Against Family Violence comprises the Sheriff's Department, the District Attorney's office, Family Justice Center, Hispanic United Hub, Haven House, and Crisis Services. A member of each of these organizations meets once a month and collaborates

“for the core services of domestic violence” (B. Mohr, personal communication, February 14, 2020).

Deputy Mohr was not aware of *Castle Rock v. Gonzales* (2005), nor the subsequent case brought to the Inter-American Court of Human Rights (2011). When I asked if he perceived domestic violence outcomes to have improved since 2012 when the resolution was passed, he said yes and stressed the implementation of Domestic Incident reports and the Primary Aggressor law, passed in New York in 1998, which takes “the burden off the victim... and putting it onto law enforcement” (B. Mohr, personal communication, February 14, 2020). In addition, he said that the Integrated Domestic Violence court has been very important in domestic violence outcomes and stated that Erie County was one of the first counties to open up a court of this kind. To his knowledge, the resolution was not conveyed to himself or his colleagues at the Sheriff’s department when it was passed. Finally, when asked if there were any other noticeable changes in the operation of his sector of the sheriff’s department that have changed, either positively or negatively, that he had perceived since 2012, he described the creation of a “team of advocates with specialized areas” within the Sheriff’s department (B. Mohr, personal communication, February 14, 2020).

Erie County Personal Communications: Executive Director, Erie County Commission on the Status of Women, Karen King

Karen King is the Executive Director of the Erie County Commission on the Status of Women. It should be noted that no equivalent to this commission exists in Tompkins County, therefore, one cannot compare King’s responses to any counterpart. King described her position as a “community outreach touchpoint” in the county, mentioning her work on a Tribute Garden to bring light to the pervasive nature of domestic violence in Erie County (K. King, personal communication, March 3, 2020; Commission on the Status of Women, 2019). King does not believe that domestic violence outcomes have improved since 2012 when the resolution was passed. She cited the rise in the number of domestic violence related homicides in 2019 as a reason for her assessment of the resolution. King believed that the resolution was a symbolic indication of the county’s support for victims (K. King, personal communication, March 3, 2020).

Erie County Personal Communications: CEO of Erie County Family Justice Center, Mary Murphy

Mary Murphy is the CEO of the Family Justice Center, a domestic violence service provider with four locations and partner organizations within the community (Family Justice Center, 2018). Murphy was introduced to the resolution when she attended a University of Buffalo Law School seminar on the subject. Murphy described the efforts Erie County has taken in order to create a united response to domestic violence, noting the 12-13 partners that the Family Justice Center works with. In addition, she described that there is a courtroom in each of the center’s three satellite offices (M. Murphy, personal communication, March 4, 2020). These courtrooms are likely part

of the Integrated Domestic Violence Court, wherein one judge hears all cases that deal with the same family in order to create a uniform response to domestic violence and reduce court appearances required for family members (Center for Court Innovation, 2018). Murphy did not believe that the resolution made any difference in domestic violence outcomes, citing the number of domestic violence homicides in 2019.

Domestic Violence Related Homicides in Erie County

Both Karen King and Mary Murphy mentioned a spike in the number of domestic violence related homicides in Erie County. Domestic violence related homicides increased threefold from 2018 to 2019 from four to twelve (Smith, 2019). King and Murphy linked their impressions that the resolution has not made a positive impact on domestic violence in Erie County to this spike in homicides. These numbers suggest that domestic violence is still a prevalent issue in Erie County. For comparison's sake, Tompkins County had zero intimate partner homicides in 2016, one in 2017, and zero in 2018 (New York State Division of Criminal Justice Services, 2020). No one else that I spoke to from either Erie or Tompkins discussed domestic violence homicides.



Figure 3: Domestic Violence Related Homicides in Erie County (Image from Smith, 2019).

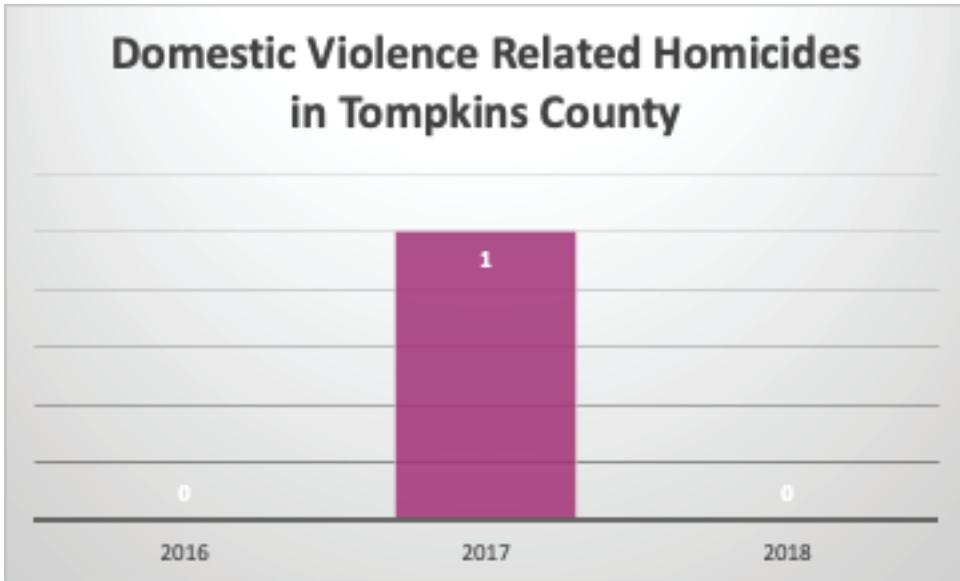


Figure 4: Domestic Violence Related Homicides in Tompkins County (Data taken from New York State Division of Criminal Justice Services, 2020).

Tompkins County Personal Communications: District Attorney of Tompkins County, Matthew Van Houten

Matthew Van Houten is the District Attorney of Tompkins County. He did not have knowledge of the resolution before I reached out to him for an interview. Van Houten noted that the District Attorney’s office participates in a domestic violence team that coordinates responses to domestic violence in the county. He found that the resolution does not “change the day-to-day operation of how [the District Attorney’s office] do[es] things” (M. Van Houten, personal communication, April 6, 2020).

Tompkins County Personal Communications: Education Director at Advocacy Center of Tompkins County, Kristi Taylor

Kristi Taylor is the Education Director of the Advocacy Center of Tompkins County, the only domestic violence service provider in the county (K. Taylor, personal communication, March 2, 2020; Advocacy Center, 2020). Following the passage of the resolution in Tompkins County, Taylor worked on an awareness campaign with Jessica Gonzales (K. Taylor, personal communication, March 2, 2020). Cornell Law School screened *Home Truth*, a documentary that followed Jessica Gonzales for nine years through both of her court cases. The screening was co-sponsored by nine partners including the Advocacy Center (Cornell Law School, 2020). Taylor noted that following the initial passage of the resolution by the Tompkins County legislature, similar resolutions were passed in various permutations of local government in the county, including by two townships, a council of local governments, one village, and the city of Ithaca (K. Taylor, personal communication, March 2, 2020; Cornell Law School, 2018).

As a direct result of the resolution, Taylor worked to train 500-600 employees from Cornell on domestic violence and the workplace. A resource workbook from Tompkins County on Domestic Violence in the workplace states “Freedom from domestic violence is a fundamental human right that must be protected and fulfilled” (Domestic Violence and the Workplace Toolkit, 2016). This suggests that there was a strong connection between the human rights framework, the 2014 resolution, and these trainings. When describing the passage of the resolution, Taylor said “[the legislature] didn’t want just a rubber stamp and a photo opportunity, they really wanted to know how this would make a difference for survivors” (K. Taylor, personal communication, March 2, 2020). Finally, similar to Deputy Mohr from Erie County, Taylor noted that the resolution strengthened relationships between organizations working on domestic violence in the community. In particular, the resolution strengthened the relationship between the Advocacy Center where Taylor works, and the Human Resources Department of Cornell Law School (K. Taylor, personal communication, March 2, 2020).

CONCLUSION

The resolutions based on *Jessica Gonzales vs. United States of America* in both Erie and Tompkins County appear to be largely symbolic in nature, rather than instrumental in positive outcomes for domestic violence cases. There does not appear to be a discernible, uniform outcome of the resolution between the two counties. Kristi Taylor of the Tompkins County Advocacy Center was the only person interviewed who identified concrete program implementation as a result of the resolution. Two common responses from the rest of the interviewees from both counties were that they either had no previous knowledge of the resolution but stated their support of the resolution’s assertions during our interview, or they had heard of the resolution but found it to be a symbolic gesture in their work in the domestic violence field. Deputy Brian Mohr from the Erie County Sheriff’s Department and Kristi Taylor from the Tompkins County Advocacy Center both noted that community partnerships were either created or strengthened as a result of the resolutions passed in their respective counties.

Before the passage of the Tompkins County resolution, a report on the advantages of its passage stated that it would have positive “symbolic benefits.” Some of the benefits enumerated included recognizing that “domestic violence is a societal problem requiring a societal solution, the first important step in moving this issue from the private sphere” (Advocacy Center of Tompkins County et al., 2014). The awareness campaign that Kristi Taylor worked on appeared to accomplish this, shedding light on a domestic violence story by bringing it into mainstream academia. No equivalent report was written on the passage of the resolution in Erie County, however, considering that the online hub of information on all local resolutions based on *Jessica Gonzales vs. United States of America* was created and published on the Cornell Law School website, one can assume that the target outcomes of the resolutions were similar to that of Tompkins County.

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