

Statement of Two Amici Curiae:
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Regarding the United States Supreme Court Opinion in
Town of Castle Rock, Colorado v. Gonzales

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Today's Supreme Court Ruling in *Castle Rock* puts Children of Domestic Violence Survivors at Grave Risk of Danger

Today, the Supreme Court of the United States decided, in *Town of Castle Rock, Colorado v. Jessica Gonzales*, that police departments are not constitutionally liable for refusing to enforce civil protection orders, in a case where such an abdication of their duties resulted in the tragic death of three children whom the court had explicitly ordered the police to protect.

Until law enforcement agencies fully recognize the threat posed to children by abusive parents and fully accept their responsibility to enforce protection orders without second-guessing the wisdom of the judicial officers who issue them, battered women and their children will continue to be placed in danger and die. It is the responsibility of a civil society to safeguard its most vulnerable members. Protection order statutes, such as that of Colorado, bolster this responsibility by providing battered women and children with individual rights to police protection. By issuing this decision, the Supreme Court of the United States has concluded that those charged with keeping the peace and assuring *domestic homeland security* are not even charged with investigating, let alone acting upon, allegations of *code red risk*. The result is untenable.

Children are at greatest danger of being killed by their own parent – not a serial killer, not a sexual predator. In 2002, parents committed 58% of homicides of children under the age of 13.¹ Children face a significantly greater risk of being abused and killed in homes where domestic violence is perpetrated by one adult partner against another. Studies indicate that in 30% to 60% of families where women are victims of domestic abuse, children are victimized by the same perpetrator.² In one study, children comprised over one quarter of domestic homicide victims and over half of child homicide cases

¹ BUREAU OF JUSTICE STATISTICS, FAMILY VIOLENCE STATISTICS: INCLUDING STATISTICS ON STRANGERS AND ACQUAINTANCES 18 (2005).

² Jeffrey L. Edleson, *The Overlap Between Child Maltreatment and Woman Battering*, VIOLENCE AGAINST WOMEN Feb. 1999, at 134, 136.

were committed by a parent who had previously abused his partner.³ When they are the victims of domestic homicides, children are overwhelmingly killed by their fathers.⁴

In recognition of this danger, all 50 states have enacted protection order legislation to protect vulnerable children whose battering fathers place them at grave risk. Civil protection orders provide the children of battered women with protection through various forms of relief, including, among others, stay away, no contact, and temporary custody orders. When courts issue protection orders that include children as protected parties, the court order obligates the police to act in conformity with the order based upon notice of a continuing risk posed to the children by the battering parent. When the police refuse to obey this obligation, they undermine the purpose of protection orders, and place children at risk of violence, kidnapping, and death. The Castle Rock Police Department had a legal and moral duty to protect the Gonzales children once warned of their abduction. As the dissenting opinion noted, the Castle Rock Police “were *required* to provide enforcement; *they lacked the discretion to do nothing.*” The police department’s refusal to act constituted a complete abdication of their basic duties and a violation of the Gonzales children’s fundamental rights.

Since 1982, Men Stopping Violence has worked locally and nationally to end men’s violence against women. This work has included the training of professionals, educating the public, and providing educational classes for men arrested for domestic violence. The organization strives to dismantle belief systems, social structures, and institutional practices that oppress women and children and dehumanize men. For more information, go to www.menstoppingviolence.org.

The National Center on Domestic and Sexual Violence (“NCDSV”), founded in 1998, is a national organization providing training, consulting, and advocacy to end violence against women. NCDSV focuses much of its training efforts on encouraging collaboration among local law enforcement and advocacy organizations to strengthen the safety of women and children and to ensure the enforcement of the laws to protect them. For more information, go to www.ncdsv.org.

³ NEIL WEBSDALE, UNDERSTANDING DOMESTIC HOMICIDE 167, 179, 202 (1999).

⁴ David Finkelhor and Richard Ormrod, *Homicides of Children and Youth*, JUVENILE JUSTICE BULLETIN (U.S. Department of Justice, Office of Juvenile Justice and Delinquency Prevention, Washington, D.C.), Oct. 2001, at 9. *See also* NAT’L CLEARINGHOUSE ON CHILD ABUSE AND NEGLECT INFORMATION, CHILD ABUSE AND NEGLECT FATALITIES: STATISTICS AND INTERVENTIONS (2004) (“Most fatalities from physical abuse are caused by fathers and other male caretakers.”)