

Alternative sentences sought for domestic violence victims

by Veronica Lewin

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Kim Dadou picked up her boyfriend from work one evening. She said he noticed the car was low on gas and told her: "If we run out of gas, I will kill you."

The threats continued and Dadou tried to leave the car. Her boyfriend stabbed her with a pair of scissors as she clutched onto the wheel. When the couple arrived home, Dadou's boyfriend pressed her against the car and raped her in their garage.

Still bleeding from the stab wound, Dadou said she was then told to lie on the floor without getting any blood on the carpet as her boyfriend lay on the couch.

Telling her story at a press conference in Albany June 7, Dadou joined a group of women who were incarcerated after murdering or assaulting their abusers and are members of the Coalition for Women Prisoners. They came to Albany to advocate for the passage of a bill that would allow judges to sentence domestic violence survivors who are convicted of a crime related to their abuse to alternatives to incarceration and to shorter periods of time in prison.

The bill's main sponsors are Assembly Correction Committee Chairman Jeffrion Aubry D-Queens, and Ruth Hassell-Thompson, D-Mount Vernon, a member of the Senate Crime Victims, Crime and Corrections Committee.

When Dadou was 20 her boyfriend proposed to her. She said she could not accept the marriage proposal because of a pending divorce. The rejection of the marriage proposal started the pattern of physical abuse. According to Dadou, she was often raped and beaten throughout the five-year relationship. She had her boyfriend arrested five times for domestic violence, but he was never incarcerated.

"Orders of protection are just pieces of paper, they're not shields or force fields," said Dadou.

She said a verbal altercation escalated one night when her abuser strangled her in the car. Panicking, she reached for a gun she knew was under the passenger's seat. Though she had never used a firearm, she fired shots. After he released his grip on her, Dadou said she opened the door and fell out of the car. In shock, she ran to her bedroom and locked the door.

The following day, she learned her boyfriend was in a car accident following the shooting. Dadou said she was coerced into giving a confession that led to her being charged with the murder of her boyfriend. She said she didn't intend to take his life, but she was defending herself. Dadou was found guilty of manslaughter in the first degree and served 17 years in prison.

Though she lacked a criminal history prior to this conviction, Dadou was denied for parole five times while serving her sentence.

"We know that it runs against the trend, and we made a decision that it's time to run against the trend," said Aubry. "That is to say that the violent act has no redemption in it. We think there are mitigating issues here that a judge ought to be able to consider in crafting a sentence and how we deal with individuals who have been victims of domestic violence and struck back."

"Domestic violence is something that breaks you as a person," said Janet Taveras. "My spirit was broken, and I don't know how to explain that to you, except you have to be in a person's shoes to know what it is when you don't even see yourself in a future, when you can't even dream about a better tomorrow." Taveras was arrested after hitting her abuser with a shovel, which led to her losing custody of her children.

The bill (A.7874-a/S.5436), also known as the Domestic Violence Survivors Justice Act, would permit judges to sentence defendants to serve shorter prison terms or community-based programs instead of incarceration.

To be eligible for these alternative sentences, a judge must find a defendant was acting in self-defense, prior partner abuse was a factor in the crime and a traditional sentence would be "unduly harsh."

"Survivors are routinely sentenced to prison for long periods of time, survivors who act to protect themselves with little chance of early release," said Tamar Kraft-Stolar, director of Correctional Association of New York's Women in Prison Project.

Lady Catharine Williams got married when she was 15. The first years of marriage were blissful, she said, until she and her husband lost their jobs. When it first happened, Williams did not consider her husband's behavior to be abusive.

"I saw my dad hit my mom, and I witnessed my father-in-law hit my mother-in-law, so my interpretation was that it was OK for a husband to hit his wife," said Williams. "So when he started to put his hands on me, I didn't feel like I was being abused but that I messed up again and he was mad at me."

The violence escalated over the years. Williams said her husband beat her so badly she once had to stay in the hospital for two months. Her husband would take her to different hospitals each time to avoid suspicion, and she would tell doctors she fell or accidentally hurt herself.

Williams reached out to her mother about the abuse she was enduring. She said her mother, who was also a domestic violence victim told her "what happens in your household, stays in your household."

She returned home one day to find her husband drunk. Williams said he had just been suspended for drinking on the job and demanded to know where she had been. She said he swung her against a wall and began to strangle her. Fearful this was the moment she would die, Williams said she reached to find something to defend herself.

"At the time, I didn't know what it was, but it was a little steak knife," Williams said. "I was trying to get him off me, I stabbed him."

Shortly after the stabbing, the police took her into custody. It was then she found out her husband had died as a result of the stabbing.

"Everything stopped. I was in complete shock. I had no idea that my husband was dead," said Williams.

After her murder indictment, Williams learned about STEPS to End Family Violence, an alternative-to-incarceration program for individuals convicted of domestic violence-related crimes. Her lawyer worked with the district attorney until she was sentenced to five years probation and participation in the STEPS program.

Williams attributes her healing process to the experience she had with STEPS. The Brooklyn-based program is the only one of its kind in the state.

According to the bill justification, alternatives to incarceration for survivors of domestic violence are "particularly appropriate as they most often have no prior criminal records, no history of violence and extremely low recidivism rates: of the 38 women convicted of murder and released between 1985 and 2003, not a single one returned to prison for a new crime within a 36-month period of release — a zero percent recidivism rate."

"These are women who are not threats to public safety," said bill supporter Assemblywoman Helene Weinstein, D-Brooklyn, who chairs the Assembly's Judiciary Committee. "They've been separated, often they're mothers separated from their children who have suffered because of their mother's incarceration."

The push for the bill stems from a report recently released by the Avon Global Center for Women and Justice at Cornell Law School and The Women in Prison Project that analyzed the relationship between intimate-partner violence and incarceration rates.

The report states community programs are a reasonable alternative to prison for those convicted of a crime while defending themselves from a violent partner. The programs are more effective at helping victims recover from abuse, reconnect to their families and rebuild their lives, it says.

Alternatives to incarceration also cost significantly less than keeping an individual in

prison. According to the report, it costs New Yorkers \$55,000 a year to keep one person in prison, whereas a community-based program in New York City costs \$11,000 a year.

Advocates of the bill want to ensure domestic violence survivors' former abuse plays a role in their sentencing.

"Domestic violence, it's not discriminatory," said Williams. "It crosses all barriers ... anybody can suffer from domestic violence. You can be male, you can be female, it doesn't matter, and I just want people to just know that there are men and women out here that are suffering from this."

"Women's incarceration and domestic violence are inextricably and devastatingly linked. The statistics released speak for themselves," said Kraft-Stolar.

According to the report, nine of out 10 women in New York state prisons report being abused at one time or another, and eight out of 10 report experiencing severe physical or sexual abuse in their lifetime. Seventy-five percent of those surveyed reported experiencing severe intimate partner abuse.

A 1998 statute established determinate sentences for victims who are first-time violent felony offenders given they were found guilty of certain violent crimes. The defendant has to be a victim of domestic violence that was a factor in committing the crime, and the defendant has to be in the same family or household as the abuser.

"The judges don't have the discretionary powers to look at alternatives to incarceration for women who have been battered, they don't take a battered woman's defense too credibly," said Dadou.

Kraft-Stolar called the statute "woefully inefficient" in its attempt to lower sentencing for domestic violence survivors who commit a crime related to their abuse. The New York State Commission on Sentencing Reform found in 2007 that only one person has been incarcerated under the statute. Supporters say the new bill would be effective at achieving the goals of the existing statute.

"This Domestic Violence Survivors Act seeks to ... establish an alternative domestic violence sentencing structure, and so we're not suggesting that people should get off scot free, but we are suggesting that the punishment should fit the crime," said Hassell-Thompson.

The bill currently has 13 sponsors in both houses of the Legislature. Advocates are hopeful passing the bill will restore justice for survivors of domestic violence.

"It's a critical measure for helping the state continue its efforts to combat domestic violence and it's a critical measure in restoring really some semblance of sanity and justice to the way that we treat survivors in the criminal justice system who act to defend themselves all across New York state," said Kraft-Stolar.