

2024-04-02 HB745 Support.pdf

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Position: FAV

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April 2, 2024

TO: The Honorable Will Smith
Chair, Judicial Proceedings Committee

FROM: Rhea Harris
Deputy Chief, Legislative Affairs, Office of the Attorney General

RE: House Bill 745 – Family Law- Protective Orders – Crimes of Violence and Stalking – **Support**

The Office of the Attorney General requests a favorable report on House Bill 745. House Bill 745 adds stalking to the list of offenses for which an individual may petition for a protective order and alters provisions of law relating to the issuance of a permanent protective order.

The current method of getting a protective order is for the person seeking the protective order be one of the following: 1) the current or former spouse, 2) cohabitant of the respondent, 3) related to the respondent by blood, marriage, or adoption, 4) parent or child of the respondent, 5) a vulnerable adult, 6) someone with a child in common with the respondent, or 7) someone who alleges rape or sex offense by the respondent in the prior 6 months. House Bill 745 would add to category 7 someone who alleges stalking within the past 6 months.

Currently, the order of protective orders follows a path: interim protective order, temporary protective order, then final protective order. The final protective order lasts for one year and usually is the end of the road for a protective order. However, under Family Law Article, Section 4-506(k), under certain circumstances, the Court can issue a “permanent” protective order.

Currently, if the victim requests a permanent protective, the Court must grant a permanent protective order if the respondent was sentenced to 5+ years in prison for the act that led to the original protective order OR the respondent committed an act during the duration of the original protective order and was sentenced to 5+ years for that act.

House Bill 745 adds another circumstance where the Court must grant a permanent protective order. The bill would add that, regardless of the length of the prison sentence, if the respondent was convicted of a crime of violence or stalking based on the act that led to the original protective order, then the Court must add a permanent protective order.

For the foregoing reasons the Office of the Attorney General requests a favorable report on House Bill 745.

cc: The Honorable Emily Shetty
Judicial Proceedings Committee Members

HB0745_Protective_Orders_Crimes_of_Violence_and_St

Uploaded by: Cecilia Plante

Position: FAV



TESTIMONY FOR HB0745 Family Law - Protective Orders - Crimes of Violence and Stalking

Bill Sponsor: Delegates Shetty

Committee: Judicial Proceedings

Organization Submitting: Maryland Legislative Coalition

Person Submitting: Aileen Alex, co-chair

Position: FAVORABLE

I am submitting this testimony in favor of HB0745 on behalf of the Maryland Legislative Coalition. The Maryland Legislative Coalition is an association of individuals and grassroots groups with members in every district in the state with well over 30,000 members.

HB0745 adds stalking to the list of offenses for which an individual may petition for a protective order and expands the circumstances for permanent protective orders.

Stalking can have negative consequences for the victim's physical and mental health, such as pain, injury, chronic disease, depression, and post-traumatic stress disorder. Stalking can also escalate to physical violence, sexual assault, or murder.

Victims who are subjected to stalking live in almost-constant fear. They never know when, where or how an abuser might appear. Victims who move to a secure location for safety purposes or who change their routines in order to avoid their abusers are left to wonder if their new location is truly safe. These victims only hope may be protective orders against their stalker. We support this bill and recommend a **FAVORABLE** report in committee.

PO - perm and stalking - house in senate testimon

Uploaded by: Lisae C Jordan

Position: FAV



Working to end sexual violence in Maryland

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Testimony Supporting House Bill 745
Lisae C. Jordan, Executive Director & Counsel
April 2, 2024

The Maryland Coalition Against Sexual Assault (MCASA) is a non-profit membership organization that includes the State’s seventeen rape crisis centers, law enforcement, mental health and health care providers, attorneys, educators, survivors of sexual violence and other concerned individuals. MCASA includes the Sexual Assault Legal Institute (SALI), a statewide legal services provider for survivors of sexual assault. MCASA represents the unified voice and combined energy of all of its members working to eliminate sexual violence. We urge the Judicial Proceedings Committee to report favorably on House Bill 745.

House Bill 745 Expanding Availability of Permanent Protective Orders and Protections for Victims of Stalking

Survivors of sexual assault are often stalked before or after the assault. This bill would expand the availability of protective orders to all victims of stalking and would permit the court to issue a permanent protective order to victim-survivors if the respondent has been criminally convicted of an act of abuse.

Protective orders are currently available to stalking victims who had a “sexual relationship” with the stalker within the past year, but not to victims of more persistent former dating partners. The protective order is available to people stalked by someone they were married to or have children with – even if the relationship was decades ago. Protective orders are also available to people stalked by someone they had a sexual relationship with in the past 12 months. Fam.Law §4-501(m)(7). If, however, a stalker and victim had a sexual relationship and were never married and do not have children together, then the victim loses access to protective orders after 12 months from the date of the sexual relationship. Additionally, the “sexual relationship” requirement means that people who refused romantic overtures and are then stalked by the spurned suitor NEVER have access to the protective order. Peace orders, as discussed below, are an inadequate substitute.

HB745 seeks to expand protective orders to all victims of stalking, including those who were intimate with a stalker over one year ago or who were never intimate with the stalker.

- Nearly half of victims stalked by an acquaintance were sexually assaulted by their stalker.¹
- 48% of sexual assault survivors (ages 18-24) also experienced stalking.²
- 1 in 10 stalkers, who had no prior relationship, if they make a threat, they will act on it.³
- According to the 2018 Department of Defense (DoD) Annual Report on Sexual Assault in the Military, **22% of women and 23% of men experienced stalking either before or after a sexual assault incident.**⁴
 - **Among women who reported experiencing military sexual assault, 71.1% also reported experiences of stalking. This was more than double the rate of stalking reported by women who did not report experiencing military sexual assault.**⁵
- According to the Department of Defense’s 2021 Overview Report of Workplace and Gender Relations Survey of Military Members, **40% of women and 29% of men reported being sexually harassed and/or stalked (18% and 11%) by the same alleged offender before the unwanted sexual contact occurred.**⁶
 - Of the women and men who reported being sexually harassed by the same alleged offender, 87% of the women and 77% of the men reported experiencing the following harassing behaviors: repeated attempts to establish a relationship, sexual comments about their body, or repeatedly asking about their sex life.⁷
 - **Of the women who reported being sexually harassed by the same alleged offender, 74% reported they had been followed by the alleged offender and 73% reported that the alleged offender used social media to track them (DoD, 2021, p. 27, as cited in Schulyer et al., 2020).**
- **Stalking of the victim by the offender is a frequent precursor of the sexual assault.**⁸

¹ Logan, T., & Landhuis, J. (2023). “Everyone Saw Me Differently Like It Was My Fault or I Wanted It”: Acquaintance Stalking Victim Experiences of Sexual Assault, Sexual Harassment, and Sexual Autonomy. *Journal of Interpersonal Violence*, 38(13-14), 8187-8186. <https://doi.org/10.1177/08862605231153892>

² Brady, P.Q., & Woodward Griffin, V. (2019). *The Intersection of Stalking and Sexual Assault Among Emerging Adults: Unpublished Preliminary Results. mTurk Findings*, 2018.

³ MacKenzie, R., McEwan, T. E., Pathe, M., James, D. V., Ogloff, J. R., & Mullen, P. E. (2009). *Stalking Risk Profile : Guidelines for the Assessment and Management of Stalkers*. (1st ed.) Monash University. (found via <https://saferfutures.org.uk/resources/stalking>)

⁴ Kintzle, S., Schulyer, A. C., Alday-Mejia, E., & Castro, C. A. (2019). The continuum of sexual trauma: An examination of stalking and sexual assault in former US service members. *Military Psychology*, 474-480. DOI: 10.1080/08995605.2019.1664367

⁵ Kintzle, S., Schulyer, A. C., Alday-Mejia, E., & Castro, C. A. (2019). The continuum of sexual trauma: An examination of stalking and sexual assault in former US service members. *Military Psychology*, 474-480. DOI: 10.1080/08995605.2019.1664367

⁶ Department of Defense (DoD). (2021). *2021 Workplace and Gender Relations Survey of military members*. Office of People Analytics. <https://apps.dtic.mil/sti/trecms/pdf/AD1178339.pdf>

⁷ Department of Defense (DoD). (2021). *2021 Workplace and Gender Relations Survey of military members*. Office of People Analytics. <https://apps.dtic.mil/sti/trecms/pdf/AD1178339.pdf>

⁸ Roger, Laura, *Many Sexual Assaults Follow Stalking*, United States Department of Justice Archives (webpage), January 12, 2021. <https://www.justice.gov/archives/ovw/blog/many-sexual-assaults-follow-stalking>

Protective orders provide the first line of defense to many victims of power-based personal violence. While the majority of these fall into the category of intimate partner violence, not all protective orders are issued to intimate partners. Protective orders are also available to survivors of sexual assault – including rape by assailants who are not partners – victims of child abuse, and in some elder abuse cases (including cases involving strangers).

Expanding protective orders to stalking victims would parallel the protection that victim/survivors of sexual assault are provided with. The majority of victims of stalking involve assailants who either wish to have an intimate relationship with the petitioner or were previously in an intimate relationship with the petitioner. MCASA supports expanding the protective order statute to include all stalking victims as a reasonable and appropriate approach. We note that the U.S. Department of Justice’s Office of Violence Against Women routinely includes victims of stalking in its work and views the issues of domestic violence, sexual assault, and stalking as intertwined.

Protective orders are stronger and more accessible than peace orders.

Protective Orders	Peace Orders
Catch all provision available This allows order to be tailored and is vital to stalking victims	No catch all provision
No filing fees or costs on petitioner per statute Respondent can be ordered to pay	Filing fees imposed on petitioner Court can reallocate
Abuse can have happened at any point	Abuse must have happened in 30 days
Firearms can be removed at temporary order phase and are removed if final order issued	No ability to remove firearms
Remote filing	No remote filing
Remedies only available if applicable to situation (for example, only parties with children in common can have order re: custody)	
One year order with ability to extend to 18 months. Two year order available in some cases	6 month order with ability to extend to one year
Permanent order available – AND WILL EXPAND UNDER HB475	No permanent PO available
Can file in District or circuit court	District Court filing only

Permanent Protective Orders. One of the strongest elements of HB745 is increased availability of permanent protective orders. MCASA and its member programs occasionally help survivors who are able to receive a permanent order. The relief they feel because of the order and because they do not have to repeatedly return to court is immense. Unfortunately, many survivors of abuse do not have access to these orders because so few cases result in a sentence of at least 5 years of imprisonment. HB745 corrects this by expanding the availability of permanent orders to any case involving a respondent convicted of abuse of the person eligible for relief. We note that some have suggested that the Committee may wish to change “shall” issue a permanent protective order to “may” issue an order to allow for the wide variety of facts presented in court. MCASA would support the bill with or without this change.

Technical Amendment. We have been advised by members of the Judiciary that if all stalking cases are added to the protective order statute, then stalking should be removed from the peace order statute, and MCASA concurs with this suggestion.

MCASA notes that if the Committee chooses to limit the expansion of the protective order to cases where the stalker seeks or has had a sexual relationship with the person eligible for relief, then it would be appropriate to keep stalking in both sections of the code.

**The Maryland Coalition Against Sexual Assault urges the
Judicial Proceedings Committee to
report favorably on House Bill 745**

HB 745 - Family Law - Protection Orders - Crimes o

Uploaded by: Catherine OMalley

Position: UNF

BILL NO: House Bill 745
TITLE: Family Law - Protective Orders - Crimes of Violence and Stalking
COMMITTEE: Judicial Proceedings
HEARING DATE: April 02, 2024
POSITION: **OPPOSE**

House Bill 745 aims to include stalking by non-intimate partners into the Protection Order. In addition, it would revamp the Permanent Protection Order law, allowing for a more robust ability to obtain a permanent order of protection.

Maryland has two types of civil orders to provide safety to victims - protection orders, and peace orders. Over many years, this legislative body has honed the Protection Order statute so that it is largely available to people identified by specific, mostly familial relationships, while peace orders are now for people experiencing difficulty with someone with whom they have no specific relationship (e.g. neighbors, bar fights, co-workers, no sexual relationship, etc.). This separation has been vital for the almost entirely self-represented victims seeking redress in the court system through one of these forms of relief. It creates predictability in which order to seek when going to court for the temporary order of protection. In addition, the protection order offers relief that is compatible with these relationships that are not relevant or necessary in the peace order scenario.

House Bill 745, if passed would add victims of stranger stalking into the protective order. The result will be a great deal of confusion for potential petitioners as well as the courts. The majority of petitioners file for their orders without the assistance of counsel. The Maryland Judiciary website provides the general public with information and guidance as to which order is appropriate based on their circumstances. The Judiciary draws the distinction between the two types of orders, protective vs. peace, by the relationship a petitioner has to an alleged abuser/respondent. Currently as written, if HB745 becomes law, stalking would be a basis for relief in both the Protective order and the Peace order.

We recognize that for some people the peace order is of too short a duration or does not provide the safety people are seeking and deserve. Legislation that gives courts the ability to lengthen the peace order and remove firearms from an abuser makes much more sense.

For all these reasons we oppose House Bill 745 and urge the Senate Judicial Proceedings Committee to issue an unfavorable report.

The Women's Law Center of Maryland is a non-profit legal services organization whose mission is to ensure the physical safety, economic security, and bodily autonomy of women in Maryland. Our mission is advanced through direct legal services, information and referral hotlines, and statewide advocacy.

HB 745 Senate - UNF - House of Ruth.pdf

Uploaded by: Deena Hausner

Position: UNF



House of Ruth Maryland

Domestic Violence Legal Clinic

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Bill No.: House Bill 745
Bill Title: Family Law – Protective Orders – Crimes of Violence and Stalking
Committee: Judicial Proceedings
Hearing Date: April 2, 2024
Position: **OPPOSE**

House of Ruth is a non-profit organization providing shelter, counseling, and legal services to victims of domestic violence throughout the State of Maryland. House of Ruth has offices in Baltimore City, Baltimore County, Prince George’s County, and Montgomery County. House Bill 745 would add victims of non-intimate partner stalking to the list of persons eligible for relief under the protective order statute. **We urge the Senate Judicial Proceedings Committee to report unfavorably on House Bill 745.**

Maryland law provides for two types of orders to protect individuals from violence and various forms of threats and intimidation: protective orders and peace orders. Protective orders are available to individuals with some form of an intimate or familial relationship with their assailant. Peace orders are available for anyone who does not fall within this definition.

Protective orders are an extraordinary remedy, allowing for the court to vacate an abuser from their home, grant custody of children, and remove an abuser’s firearms, among other things. The protective order originally was enacted to protect only those victims who were married to their assailants and has been expanded over the years to include victims in other types of intimate and familial relationships, recognizing not only the intertwined nature of these relationships but also the very serious risk of danger to victims of intimate partner violence when they attempt to flee their abusive partners. While victims of stranger stalking deserve to be protected, this goal is best accomplished by enhancing the protections available in the peace order statute. Moving victims of stranger stalking under the umbrella of the protective order statute, as House Bill 745 would do, only serves to cause confusion and diminish the efficacy of the protective order statute to the detriment of those who need it most.

Under current law, it is very clear for which type of order a petitioner must apply based on the type of relationship they have with the respondent. This distinction is critical for petitioners, almost all of whom complete petitions and appear for interim or temporary protective order hearings without representation. House Bill 745 would erode this distinction and cause confusion for litigants and the courts. When a petitioner unknowingly applies for the wrong type of order, this error is not usually uncovered until

the final protective order hearing, at which point the court must dismiss the case and the petitioner must start the process over again. This causes some victims to feel that the court does not believe them and they end up abandoning the process. Those who persist have to re-file their paperwork, wait for law enforcement to re-serve the respondent, and return to court yet again. This causes an undue burden on victims, especially those who have limited income and cannot afford to miss work or arrange childcare to attend multiple court dates.

House Bill 745, if passed, would lead to other unintended consequences. Victims of dating violence who have not engaged in sexual activity with their dating partner currently fall under the peace order statute. If passed, House Bill 745 would elevate the protections for victims of stranger stalking over those of victims of dating violence, whose relationships with their abusive partners are often as intertwined as victims who are married to or have children with their abusers. In addition, it would cause great confusion and inconsistency for victims who have been subjected both to stalking and harassment. Because there is frequently little to no extrinsic evidence of stalking and harassment other than the victim's testimony, petitioners often file based on all of the forms of abuse to which they have been subjected and hope that their testimony of at least one of the abusive acts will meet the burden of proof. House Bill 745 would lead to victims of both stalking and harassment having to make a choice whether to file under the protective order statute or the peace order statute, as harassment is exclusive to the peace order.

The House of Ruth urges the Senate Judicial Proceedings Committee to issue an unfavorable report on House Bill 745.

HB 745_MNADV_OPP_JPR.pdf

Uploaded by: Melanie Shapiro

Position: UNF



BILL NO: House Bill 745
TITLE: Family Law - Protective Orders - Crimes of Violence and Stalking
COMMITTEE: Judicial Proceedings
HEARING DATE: April 2, 2024
POSITION: **OPPOSE**

The Maryland Network Against Domestic Violence (MNADV) is the state domestic violence coalition that brings together victim service providers, allied professionals, and concerned individuals for the common purpose of reducing intimate partner and family violence and its harmful effects on our citizens. **MNADV urges the Senate Judicial Proceedings Committee to issue an unfavorable report on HB 745.**

House Bill 745 would upend the longstanding and critical delineation of eligibility for Maryland's protective order and add non-intimate partner victims of stalking to the protective order resulting in unnecessary confusion among predominantly pro se litigants. House Bill 745 would also elevate the protections available for victims of stranger stalking above what victims of dating violence are eligible for. On the [Court's website](#) it clearly explains, "A peace order is another way the court can protect you. Any relationship that does NOT qualify for a protective order is eligible for a peace order. Those relationships include neighbors, strangers, or someone with whom you have a non-sexual dating relationship."

Maryland offers two types of civil orders for victims seeking safety, a peace order, and a protective order. Protective Orders address issues unique to those in an intimate partner or familial relationship. Peace Orders are a form of relief available to those that do not meet the relationship requirements of a protective order. This clear delineation is valuable for pro se litigants to understand which order to apply for. It also allows for the enhanced protections available pursuant to a protective order since it limits those eligible for relief. Extreme Risk Protective Orders can be utilized as well.

The protective order was created for victims of domestic violence, the protections included are unique, expansive, and designed to address the **high risk of lethality** and dangerousness for victims of domestic violence. **The protective order is an extraordinary remedy with extraordinary relief which is why the protective order is so limited in terms of eligibility.** The peace order addresses the needs of those that don't meet the relationship requirements and if more protections are needed then the peace order should be improved for all victims eligible for a peace order. To retain the extreme remedies included in the protective order, including ordering an individual to vacate their home, aware custody of children, and order the surrender of firearms and subsequent prohibition on possession of a firearm throughout the duration of the order, it must remain limited in eligibility. Expanding the protective order to include those that do not have an intimate or familial relationship would dilute the protective order and could result in harm to the very victims the protective order was created to protect.

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Stalking in an intimate partner relationship is a lethality factor and increases the risk of intimate partner homicide by three times.¹ Among female victims of attempted and completed intimate partner homicide by male partners, in the 12 months prior to the attack, 85% of attempted and 76% of completed homicide victims were stalked. The research on non-intimate partner stalking suggests that “Ex-intimate partners pose a relatively high risk of violence, and strangers and acquaintances a relatively low risk.”²

There are five different types of stalkers: the rejected stalker, the resentful stalker, the intimacy seeking stalker, the incompetent stalker, and the predatory stalker.^{3,4} When assessing the risk of stalkers based on their type, the evidence demonstrates that, “Ex-intimates are the stalking victims most likely to be threatened and assaulted. A history of domestic violence and/or jealousy before separation have been reported, in some but not all studies, to increase the risk of violence in this group. At the other extreme, stranger stalkers present the lowest risk of assaulting their victims... The dramatic differences between the risks of assault for ex-intimates and strangers, particularly those who are public figures, account for a significant amount of variance in this area.”⁵ Those victims of intimate partner stalking are eligible for a protective order. While victims of stranger stalking should be and are eligible for relief and protections including peace orders, extreme risk protective orders. Non-intimate partner stalking should remain in the peace order since the research demonstrates extremely different risk levels and need for greater protections for former intimate partners who are stalked.

House Bill 745 does not meaningfully improve the path to a permanent protective order for victims of domestic violence and could prevent future progress. While the sentencing requirements are removed, there is still a requirement that there be a criminal conviction. The overwhelming majority of victims of domestic violence do not report their victimization to law enforcement, and if they do, the charges often do not result in conviction. A determination by a court exercising discretion that a permanent protective order should be granted based on factors including the nature and severity of the acts of abuse; the history and severity of abuse in the relationship between the respondent and any person eligible for relief named in the protective order; and the nature and extent of the injury or risk of injury caused by the respondent is the type of reform that would benefit victims of domestic violence and improve the pathway to a permanent protective order.

For the above stated reasons, the **Maryland Network Against Domestic Violence urges an unfavorable report on HB 745.**

¹ <https://www.stalkingawareness.org/wp-content/uploads/2018/11/Stalking-IPV-Fact-Sheet.pdf>

² https://www.researchgate.net/publication/24006630_Violence_in_stalking_situations

³ Mullen PE, Pathé M, Purcell R, *et al*: Study of stalkers. *Am J Psychiatry* **156**:1244–9, 1999.

⁴ Paul E. Mullen, Rachel Mackenzie, James R. P. Ogloff, Michele Pathé, Troy McEwan and Rosemary Purcell, *Assessing and Managing the Risks in the Stalking Situation*, Journal of the American Academy of Psychiatry and the Law Online December 2006, 34 (4) 439-450

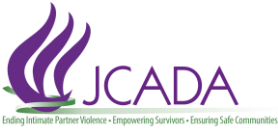
⁵ *Id.*

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JCADA Opposition Testimony_HB 745.pdf

Uploaded by: Melanie Shapiro

Position: UNF



March 29, 2024

Opposition: HB 745 - Family Law - Protective Orders - Crimes of Violence and Stalking

I am writing to you as the Executive Director of the Greater Washington Jewish Coalition Against Domestic Abuse (JCADA), which is based in Montgomery County. I have been a proud resident of Montgomery County for the last 20 years.

We are gravely concerned about HB 745 - Family Law - Protective Orders - Crimes of Violence and Stalking. In short, our field has spent the last 50 years advocating for laws to protect victims of intimate partner violence (IPV) and domestic violence (DV) because of the unique nature of violence occurring within a relationship, often affecting children and other family members. Adding stranger stalking to Protective Orders, when that is already covered in a Peace Order, will create chaos, confusion, misfiling, and most importantly dilute the power of the Protective Order's capacity to protect the most vulnerable victims, namely because stalking can be a precursor to higher lethality in an IPV/DV context, NOT by a stranger.

The protective order protections included are unique, expansive, and designed to address the high risk of lethality and dangerousness for victims of IPV/DV. This would undermine and dilute the protective order. Research shows that it is domestic violence/intimate partner stalking that creates the greatest risk of physical harm and lethality. *Assessing and Managing the Risks in the Stalking Situation* from the Journal of the American Academy of Psychiatry and the Law, supports this point going so far as to say "At the other extreme, stranger stalkers present the lowest risk of assaulting their victims."

This bill is wholly unnecessary as adequate protections already exist for these different populations – the stranger stalking victim and the IPV/DV stalking victim. Therefore, we oppose this bill.

JCADA has two full time attorneys helping survivors successfully file for and receive Protective Orders in Maryland and Virginia. This is already a difficult and traumatic procedure that our team is working to ameliorate for our clients. Adding stranger stalking to the protective order will now grant victims of stranger stalking more protection than some victims of domestic violence, especially those in newer relationships. Because the protections in the protective order are broad it is intentionally limited in terms of eligibility. Further, in the amendment to improve path to permanent protective order there is still a requirement for criminal conviction – most victims of domestic violence do not pursue criminal charges and if they do there is not necessarily a conviction, so this does not meaningfully improve the path to a permanent order of protection for victims of IPV/DV.

For over 23 years, JCADA has been a trusted, respected, community presence, evolving to provide a full range of legal, clinical, social services and referrals to any survivor of intimate partner violence (IPV) in the Greater Washington area, regardless of gender, religion, immigration status, sexual orientation, or any other identifying factor. Unlike other IPV-focused organizations in the region, all JCADA's services are free of charge, and never arbitrarily time-limited. JCADA empowers all survivors of IPV in the Greater Washington Area to live safely and educates the local Jewish community about intimate partner violence and the general community about the needs of Jewish survivors. We see over 1,000 clients a year and educate over 2,000 teens and adults, with a majority residing in Maryland.

We appreciate your attention to this matter,

Amanda Katz, Executive Director