



SUPREME COURT of ARGENTINA – DOMESTIC VIOLENCE OFFICE

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1. - JUDICIAL SYSTEM IN ARGENTINA

Establishing a separate, distinct judicial branch of government responsible for upholding the Constitution as the supreme law of the land is a unique American contribution to political theory. And Argentina's Constitution is based on the US Constitution, so our system includes a similar separation of the branches of government, which tends to guarantee judicial independence.

This means Argentina is a Federal country, with a Federal system, wherein power is divided between the central government and local governments of Provinces –equivalent to States- each of which have their own Constitutions that repeat the scheme of three separate powers: Executive, Legislative and the Judiciary, with local Supreme Courts, Courts of Appeals and trial judges.

2. - CREATION OF THE DOMESTIC VIOLENCE OFFICE OF THE SUPREME COURT

In this context, and having been a Public Defender and then a Judge for more than 30 years, in 2004 Elena I. Highton was nominated to serve in the Supreme Court of the country, taking her seat as the first Woman Justice appointed under a democratic government (there had been one, three decades before, under a military government). Now she is the Vice-President or Deputy Chief Justice of the Court.

And after considering all the difficulties faced by a certain sector of the population affected by domestic violence problems, in 2004 the Supreme Court of Argentina, decided to take the initiative in changing this situation.



She was put in charge of this very challenging Project by the then Chief Justice: the creation of a Domestic Violence Office, directly dependant of the Supreme Court, to be open 24 hours a day - 365 days a year.

In order to design and implement this Office, a group of our most experienced and knowledgeable judges and experts in the issue (civil, family, criminal and juvenile judges, a forensic doctor, a representative from the prosecution and the public defense offices) was chosen. The Court also selected a young and enthusiastic woman who organized the meetings and agenda of this committee and is now the Director of the Office.

This working group has met nearly weekly in Justice Highton's chambers for five years, working in the design, the needs, the professional profile for a public selection process of experts, training, monitoring, supervising the Office, etc.

Selection was not easy, as 1600 professionals (lawyers, psychologists, social workers and medical doctors) answered the public call, from which the first 56 were chosen. Others were preselected to have a pool of professionals ready to complete future staff and some of them have already been included as needs made the Office grow. Later there were other public calls as the Office was growing.

After a month of intensive training, in September 2008 the Office was opened to the community and is accessible as an expert service to the judges.

3. - THE DOMESTIC VIOLENCE OFFICE OF THE SUPREME COURT

The Domestic Violence Office of the Supreme Court of Argentina, or OVD (standing for Oficina de Violencia Doméstica - Domestic Violence Office in Spanish), is a court department which operates twenty-four hours a day, every day of the year, in order to offer access to justice to citizens with information and guidance concerning domestic violence issues, receive allegations as a basis to proceed on domestic violence charges or obtain remedies (especially immediate injunctions), and, in particular, help judges, prosecutors and lawyers providing expert opinion on such matters.

By decision of this high Tribunal, the Office is accountable to the Vice-Presidency of the Supreme Court.



It has an interdisciplinary team consisting of professionals in the fields of law, medicine, psychology and social work, representatives from all professions on duty around the clock. It is precisely this interdisciplinary work that makes it possible to prepare in only one step not only a document which will provide a basis for initiating legal proceedings, but also a risk assessment report on the situation, as well as a medical report on injuries.

4. - HOW THE OFFICE OPERATES

There are 11 teams working along the week.

In the Office there are lawyers, psychologists, social workers and physicians, plus the administrative and auxiliary staff, this amounting to a more than a 160 member staff altogether.

The person who comes to present a verbal complaint in the OVD will be assisted by a unit team consisting of a lawyer, a psychologist and a social worker. During the interview, a written statement is issued, all paperwork being completed for it to be a formal complaint, and a risk assessment report is drawn up. Besides, the victim –if necessary, which usually is the case- is examined by a physician, who shall determine whether there are injuries, in which case photographs are taken and a complete diagnosis of the condition is written out.

After the person communicates her or his story, she or he (mostly she) is given complete and detailed information about her or his options, whether judicial or not, related to the problem posed.

Orientation having been provided, the victim expresses her or his will as to which course of action to pursue, this being left in written form, after which the case is submitted according to chosen track, unless a crime against public order has been committed or there are children at risk.

In those cases where the situation is extremely serious and the victim cannot leave home, she or he can count on the help of mobile squads belonging to the Ministry of Justice and Human Rights program *Victims against Violence*. These squads, with a simple call from the victim, can take the person to the OVD headquarters to initiate proceedings.



The mechanics of the Office has saved a lot of time, as experience since its opening, on September 15th, 2008, tells that now courts usually make a decision on injunctions on the same day, or the following day at the latest. This has meant a great step forward, since before establishment of the OVD, the risk report required to determine whether it was appropriate to order a remedy used to take up to four months, which in turn resulted in a severe –sometimes irreparable– delay in arriving at a decision concerning the protection of domestic violence victims.

Likewise, when cases are referred to criminal courts, judges are provided with adequate documentation. According to judges, significant progress has been shown at this point by the fact that there are no more delays in determining whether there are bodily injuries (before, if injuries were not very serious, they had healed by the time checks were made), and they are now informed about the eventual existence of a civil action, simultaneous with criminal proceedings.

Cases may be submitted either to judicial or non-judicial authorities. As to the latter, victims are mostly supplied free legal advice resources, and/or referred to psychological or psychiatric services.

During the drafting of the project of the Domestic Violence Office, special attention was paid to the characteristics and need of children. Several toys and television sets transmitting cartoons can be found in the waiting room. The office also has a room specially designed for children where preschool teachers can look after them while their parents (mostly mothers) or relatives are being interviewed.

5. – STATISTICS

The work done by the OVD since its opening, on September 15th, 2008, through last January 31st shows that, according to the most recent statistics available, 66593 cases have been admitted.

Out of these, 80 percent have been women, whereas 20 percent have been male victims. A further distinction of sex and date shows that, 65 percent of the victims are women, 15 percent are female children, 13 percent are male children and 7 percent are men.



As to the people accused of committing domestic violence offences, 83 percent of them are men, whereas 17 percent are women.

Out of the total of cases submitted, 97 percent have been referred to civil courts competent to hear family disputes; 76 percent, to criminal courts (courts which hear preliminary criminal proceedings, correctional courts, juvenile courts, and the Attorney General's Office); 59 percent, to free legal advice services; and 27 percent, to health services (psychological or psychiatric treatments). Finally, in 2 percent of the cases, victims were given information, but they decided not to act.

The observed violence suffered by people is: psychological 95 percent, physical 68 percent, economic 37 percent and sexual 12 percent. These percentages exceed 100% because the types of violence often co-occur simultaneously.

Furthermore, a process of disaggregation of risk levels shows that 6 percent of the cases are cases of the highest risk, 27 percent of high risk, 26 percent of medium risk, 16 percent of moderate risk and 10 percent of low risk.

Concerning the different neighbourhoods from which the persons affected come, statistics show that all districts in Buenos Aires city are represented (e.g. 2498, are from Palermo), although Flores neighbourhood comes first, with 5334 cases registered.

6. - EFFECTIVE ACCESS TO JUSTICE

In such a way, this Office makes possible access to justice for those confronting domestic violence issues and who are currently unaware of the ways in which their cases can enter the judicial system. Professional assistance offered by the Office promptly provides victims with all available information about which courses of action are possible depending on the particular difficult situation they are going through, as well as with immediate support, which cannot be provided by Courts. At the same time, it rationalizes resources because of the undoubtedly greater efficiency entailed when one department is common to various courts, which means a better use and management of both material and human resources. It is a tool for civil and criminal courts to coordinate their work and have, at the very moment victims file their claim, all necessary information to make an immediate decision.



The Supreme Court included the Domestic Violence Office in the budget. This means that the Office is funded by public money, employees are in the Court's payroll and the building belongs to the Supreme Court.

It is important to mention that different agencies of the United Nations are very interested in the project, which in their view meets standards and means real, effective access to justice for any victim of domestic violence. That is why, though software was prepared by our specialists, it was revised and validated by the UN, as there is absolute interest in preparing instruments to collect statistical data that can be compared in diverse countries in the world.

After the case is referred, there is a monitoring process in order to keep a record of the proceedings, which helps in gathering the statistics necessary to later make an analysis of the performance of the Office, the judicial system, and those public and private sectors with which there has been established some sort of connection. Furthermore, the collection of data and the examination of what these figures show, both activities being conducted by the highest authority of one of the branches of government, contributes to a deeper appreciation of the true magnitude of this phenomenon, which will help in subsequent drawing up of improved policies concerning domestic violence.

Victims can come directly to the office (doors are open round the clock, in a separate building with direct access from the street to intake and waiting area).

Once ascertained that there is a domestic violence report to be made, the victim is interviewed by the professional team, which elaborates a risk assessment for the case. This evaluation is sent to the criminal or family judge to whom the case is referred. Eventually, no judge will intervene immediately, as medical or psychological attention in hospitals or lawyers' counsel will be needed.

The Court has signed an agreement with the Mayor of the city of Buenos Aires, so as to make available hospital services, shelters, etc., which are very difficult to obtain, as demand is always higher than supply

7. - DOMESTIC VIOLENCE OFFICES IN THE PROVINCES

Many of the Supreme Court or High Court Justices of the Provinces (in particular female Justices) started inquiring about the office and began to



think in following suit. In consequence, a new Committee was devised by Justice Elena Highton de Nolasco, including those who belong to the group that designed the Office and Justices representing different regions of the country, with the idea of replicating or adapting the plan to their own realities. Cooperation agreements with all 23 provinces have been signed by Highton as Deputy Chief Justice of the Supreme Court. Offices in the provinces have already started to open. In April 2010, the first branch of the Domestic Violence Office began to operate in the province of Tucumán, which has recently opened a new branch in the locality of Concepción. In August 2010, three decentralized branches of the Domestic Violence Office began to operate in Santiago del Estero, in the localities of Añatuya, Frías and Termas de Rio Hondo. The same year, Salta inaugurated its own branch and, on March 2013, the province of Santa Cruz opened its own office, which operates every day of the year, and has recently inaugurated one of the type in Caleta Olivia. The provinces of La Pampa, Entre Ríos, Jujuy, Misiones and Río Negro have formally created Domestic Violence Offices in their own jurisdictions.

8. - ACCESS TO JUSTICE AND THE NEW ROLE OF JUDGES

Judges have a new and growing role in society and they have to undertake tasks and resolve conflicts unknown in previous times, they usually have to solve those social problems that other branches of government have not dealt with or have resolved inefficiently. Because of changes, the role of judges has become especially important since –with more public exposure and challenges– their duty includes gaining and expanding Access to Justice. And Access to Justice, is not reduced to adjudicating cases which evolve along many years in the Courts, but also entails making available all types of Alternative Dispute Resolution services offered or provided by Courts; and among these, adequate and immediate consideration and attention of domestic violence cases is not out of scope in these times and in this world in which women’s human rights are so much involved.

That is why the Supreme Court of Argentina has considered all the difficulties faced and decided to take the initiative in changing this situation in order to effectively guarantee the full enjoyment and exercise of the rights enshrined in the Constitution and International Treaties.