

Backfire: When Reporting Domestic Violence Means You Get Investigated for Child Abuse

By Abigail Kramer



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It

started with intrusive questions: where she'd been; who she was talking to on the phone. Soon he was throwing his weight around—blocking her path or, worse, the door. Five months after they started dating, when he tried to push her out of a car, Anya knew the relationship was over.

But she was also pregnant, and she thought her child should know his father.

After the baby was born, Anya, a 34-year-old school nurse, made a plan with her pastor. She would bring her son to a private room in the church, where he could spend time with his father but there would be people nearby, in case things went wrong—which they quickly did.

They argued. He shoved her and stormed out of the room, still holding the baby in one arm. Anya rushed after him, and—according to witnesses' statements to the police—he punched her in the face and pushed her into a wall.

What happened next is something that has become increasingly common in New York City, as in many other parts of the country: Alongside a criminal case, the Administration for Children's Services (ACS) opened an investigation into Anya's home and family, looking for signs of child abuse or neglect.

Coordination among police, prosecutors, and ACS is nothing new—child welfare reports are often called in by cops or district attorneys who intervene in domestic disputes. But in 2016, Mayor Bill de Blasio created a taskforce with the goal, among others, of [integrating ACS even more deeply](#) into the City's response to what officials have described as a plague of domestic violence.

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During the investigation phase, however, every adult in a child's life comes under scrutiny.

Even as other violent crime rates have remained near record lows, domestic incident reports have [increased in the past decade](#). And they are notoriously difficult to prosecute: Citywide, more than 60 percent of domestic incident arrests result in charges that are dropped or dismissed, according to an [analysis by the Center for Court Innovation](#).

Child welfare cases, on the other hand, often last long after criminal charges disappear—and intervention doesn't depend on a conviction. If an ACS investigator suspects domestic violence in a family, the agency can immediately force an accused parent to leave the home, often facing an order of protection that forbids any unsupervised contact with partners or kids.

ACS officials make the case that, once the agency is in a family's life, it is in a unique position to help not just children but victimized parents, protecting them from abusers and steering them into services—like therapy or a domestic violence shelter—they might not access on their own.

During the investigation phase, however, every adult in a child's life comes under scrutiny. After the incident at the church, Anya filed for an order of protection that forbade her son's father from coming near her or their child. Nonetheless, for two months, ACS caseworkers showed up at her home, unannounced, to talk to the neighbors, inspect the baby, and search the apartment. "They checked the refrigerator, checked his crib, checked the cupboards," Anya says. "It felt very invasive and insulting."

And of course, child welfare investigations raise a specter too terrifying for most parents to imagine: “It was always in the back of my mind that they could take my child,” Anya says.

Anya’s caseworker assured her that ACS’s primary focus was the baby’s father—no one was accusing Anya of being a negligent parent. When the investigation finally ended, however, Anya learned that her name had been added to New York State’s [child abuse register](#), with a substantiated allegation of “inadequate guardianship.” Her offense, as described in an ACS summary, was “instigating a confrontation and engaging in an altercation” with her son’s father.

In other words, Anya says, she was punished for her own assault. “The [ACS] worker said I put my son in danger when I followed his dad in the church.”

With a child welfare record, Anya didn’t lose her baby, but she did lose her job as a nurse.

After hiring a lawyer and spending months on an appeal, she was eventually able to get her name cleared from the State’s child abuse register, but by then she had lost months of income and come close to losing her apartment. “All ACS did was make it harder for me to take care of my son,” Anya says.

Domestic violence has long been one of the most common—and one of the most contentious—allegations to bring families into the child welfare system. In 2018, Anya’s was one of over 56,000 investigations conducted by ACS, close to 25 percent of which came to the agency with a high-priority flag for domestic violence in the family, according to data provided by ACS.

The stakes are immediately high. By law, ACS cannot take a child away from a parent solely because that parent has been victimized by another adult. But caseworkers are trained to see domestic violence as a serious warning sign, since it can be terrifying and traumatic for kids to witness—and it may signal real physical danger in a home.

Just over three years ago, New York City witnessed a devastating collision of domestic violence and child abuse when, within three months, [two little boys](#) who were known to ACS were killed in their homes, allegedly by their mothers’ abusive partners.

Their stories clung to the city’s newspapers for months, inspiring both [scathing criticism of ACS](#) and a [lasting surge in reports](#) of suspected child abuse and neglect.

ACS responded aggressively, petitioning judges to place tens of thousands of families under ongoing, court-ordered supervision, a status that allows the agency to monitor their homes and children for months, or even years—in many cases, long before a judge hears evidence to determine whether the allegations against a parent are, in fact, true.

Altogether, from 2016 through 2018, close to 30,000 New York City kids were placed under court-ordered ACS monitoring, according to data from the agency. For nearly a third of those kids, the family’s case was driven, at least in part, by an allegation of domestic violence. (The number of court-ordered supervision cases has [come down in the last year](#), dropping from approximately 8,750 children in 2018 to 8,200 in 2019, but remains significantly higher than in the years before the 2016 crisis.)

ACS officials say that, whenever possible, the goal in domestic violence cases is to keep kids and victimized parents safe at home, together. “We carefully balance the need to ensure the child’s safety with the parent’s rights to due process,” ACS Commissioner David Hansell wrote in an [opinion piece](#) last year. “In the vast majority of cases, children remain at home while parents take part in prevention services.”

(In response to requests for comments on this story, ACS spokesperson Marisa Kaufman said, “Our top priority is the safety and well-being of children in New York City and in any case involving domestic violence, our practice is to do everything possible to ensure the safety of the survivor and the child or children.”)

However, critics of New York City’s child welfare system—including many survivors of domestic violence and their advocates—say that ACS interventions in domestic violence cases often go terribly wrong, turning victims into suspects and creating chaos for vulnerable families.

“It’s a completely oppressive system,” says Raquel Singh, the executive director of Voices of Women, an advocacy organization that has advised ACS on domestic violence policy.

By nature, ACS investigations are intrusive, adversarial, and fraught with suspicion, Singh says. Once an investigation is underway, the most intimate pieces of a family’s life are open to inspection: Unwashed dishes, kids’ sleeping arrangements, a mother’s sex life—all can become subject to judgment in Family Court.

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Even when there are no allegations against them, domestic violence victims are stripped of their privacy, deprived of authority in their homes, and made to live in terror of losing their children, Singh says. It’s not uncommon for abusers to use ACS as a weapon against their victims, who stay silent for fear of bringing more scrutiny into their homes. “It creates this double-victimization.”

Under any circumstances, ACS investigations are dogged by complicated questions of power. The vast majority take place in New York City’s [poorest, most densely black and Latinx neighborhoods](#)—the same places at the center of high-profile battles over police surveillance, especially of men of color on the streets. The child welfare system, its critics say, moves the surveillance inside homes, where it lands largely on women.

Lawyers who represent parents in New York City Family Courts often argue that ACS practices would not be tolerated in communities with money or political influence.

“It’s a one-size-fits-all, bullying approach,” says Maura Keating, the director of litigation at Center for Family Representation, which defends thousands of parents each year. “We tell families they have rights, but that goes out the window when your kids are trying to sleep and there’s someone from ACS banging on the door late at night, tearing through your closet, looking for evidence that a man is there.”

Once ACS has made a charge of domestic violence, alleged victims have little say in the decisions ostensibly made to protect them, Keating says. Whether they agree that it's necessary or not, they are frequently ordered to cut off contact with their partners, change their locks and phone numbers, and present themselves and their children to multiple, mandatory therapy appointments each week. If caseworkers believe that an alleged victim is in contact with a domestic partner who's been excluded from the home, she may be required to pull her kids out of school and move to a domestic violence shelter in another borough.

Such upheaval have unintended consequences—especially for families already living on the precipice of chaos. “So many of our clients have their housing by the skin of their teeth,” Keating says. Forced to exclude a parent who pays rent, or who takes care of the kids while another parent works, “the whole family might end up homeless.”

“Our clients don't have suitcases,” Keating says. “It's ‘put your stuff in a plastic bag and hope you can carry it.’”

In the schismatic world of child welfare, one of the few things on which most people agree is that ACS interventions in domestic violence cases used to be much worse.

Two decades ago, a 32-year-old mother of two named Shawline Nicholson came to the attention of ACS when she attempted to end her relationship with her daughter's father, who responded by breaking her arm, fracturing her ribs, and cracking her skull. Nicholson's second phone call, after 911, was to a trusted neighbor, who agreed to take care of her kids while she was in the hospital. Nevertheless, police on the scene alerted ACS, which picked up Nicholson's children and placed them with strangers in foster care.

Nicholson's subsequent legal case against ACS—which became a class action lawsuit known both as *Nicholson v. Williams and Nicholson v. Scoppetta*—ultimately spanned four years, three courts, 44 witnesses, and the tenures of two ACS commissioners. It is commonly recognized as having changed the course of child welfare in New York City.

During the hearings, it became evident that Nicholson's experience was far from unique—that, in fact, ACS routinely removed children from domestic violence victims who were accused of no form of neglect or maltreatment other than the act of “engaging” in domestic violence in the presence of a child.

Nicholson's own caseworker testified that these removals were motivated less by concern for children's safety than as a means of coercion. “After a few days of the children being in foster care,” he said, “the mother will usually agree to ACS's conditions for their return without the matter even going to court.”

Carolyn Kubitschek was a lead attorney for the *Nicholson* plaintiffs. The caseworker's testimony, she says, “was a real turning point in the hearings. You could feel the room change. People were saying, ‘ACS is just like the batterers.’”

In a remarkably gripping, 84-page [federal court decision](#), Judge Jack Weinstein described ACS's treatment of Nicholson and other domestic violence victims as "pitiless double abuse," akin to blaming a woman for her own rape. Motivated by nothing more than "bureaucratic pusillanimity," Weinstein wrote, ACS's needless foster care placements also punished children, "visiting upon them the sins of their mother's batterer."

It was a sentiment that marked a turning point in New York City's understanding of child welfare. The city was still limping its way out of the 1990's—a decade in which newspapers shocked readers with stories of "crack babies" and their drug-fiending mothers, politicians mongered outrage against welfare defrauders, and ACS caseworkers were trained in the motto, "When in doubt, take 'em out."

The *Nicholson* trial offered a different narrative, in which the low-income mothers who served as its plaintiffs were victims rather than villains—and not just of their abusive partners, but of circumscribed life choices, grinding poverty, and a child welfare system that casually pushed them around.

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In a preliminary injunction, Judge Weinstein ordered ACS to reverse its domestic violence practices: Rather than charging victims with neglect, the agency must help them find shelter and obtain orders of protection against their abusers. He ordered changes to training and supervision that became the basis for ACS policies that continue today, including a mandate that all caseworkers receive regular domestic violence training and have access to expert consultants.

It was when the *Nicholson* case went to appeal, however, that it achieved its largest impact—in effect, recalibrating every future child welfare decision made in New York. In response to several questions referred by the federal court, New York State's Court of Appeals decided that, before removing any child from a home, ACS and Family Court judges must consider the potential psychological damage caused by separating children from their families, rather than simply predicting the potential for harm in a child's home.

It was a radically new directive for ACS, reorienting it from an agency whose primary job was to rescue kids from dangerous families to one that is expected, instead, to support vulnerable children by helping their struggling parents.

When the appeals court decision was issued, New York City's foster care population was already on a downward slope. Over the following decade and a half, it plummeted, dropping from 22,000 children in 2004 to its current record low of under 8,000 kids. In the meantime, ACS has invested many millions of dollars into what are known as "preventive services" for families deemed at risk of child abuse or neglect, which offer resources like case management, drug treatment, and in-home therapy—intensive programs that can be all but impossible to find, ACS officials point out, outside the auspices of child welfare.

In 2019, ACS rolled out the newest in its roster of intensive, therapy-based preventive programs, designed specifically for families under court-ordered supervision because of a domestic violence allegation. Called "A Safe Way Forward," the program provides case management and group and individual counseling to every family member—not just kids and victims, but alleged abusers as well.

Domestic violence survivors played a significant role in designing the program, which aims to be supportive, rather than coercive, and to recognize that survivors are the experts on their own lives, says Kailey Burger, ACS's assistant commissioner for community-based strategies.

"We're making every effort to create a program that people will want to participate in," Burger says. "We've created beautiful, empowering, survivor-driven spaces with top-quality trauma therapy. It's a caring, compassionate approach that seeks to meet families' needs and be driven by their goals."

The program is designed to help victimized parents make informed choices for their families—including safe reunification with an alleged abuser, if that is what a survivor wants. "We're not creating a program to solve a problem as we see it," Burger says. "We're creating a program that enables survivors to decide what they want for themselves and then have the support to achieve that."

In many ways, 'A Safe Way Forward' represents an attempt to remake domestic violence interventions according to a newer, more progressive, post-Nicholson vision of child welfare—one in which ACS strives to be seen a resource, rather than a threat.

That vision is the right place to start, says Colleen Friend, a social work professor at California State University at Los Angeles. Friend has spent much of her career thinking about how child welfare agencies can do a better job of addressing domestic violence. Until very recently, she directed Cal State's Child Abuse and Family Violence Institute. For several years before that, she ran a program in Arizona, in which a family's whole community—grandmothers, cousins, great-aunts—were called in to support parents accused of domestic violence and to hold them accountable for their children's safety and their treatment of one another.

Child welfare agencies often subscribe to a false dichotomy, pitting children's safety against their need for intact family relationships, Friend says. In domestic violence situations, the best way to protect kids is to work collaboratively with adult victims—a complicated undertaking in the realm of child welfare, where every decision is made in the shadow of its worst-case outcome.

In domestic violence situations, the best way to protect kids is to work collaboratively with adult victims—a complicated undertaking in the realm of child welfare, where every decision is made in the shadow of its worst-case outcome.

"To really work with a victim, the system has to be willing to tolerate some risk," Friend says. "That's scary. The reality for a caseworker is they're on the line if a kid gets hurt."

But the alternative is far more dangerous, Friend says. "If the system is against me, I'm not coming forward. I'm not asking for help. We're driving away the very people we want to reach out to and help make their situation safer. We have to create a system where any woman—or any parent—can ask for help and be confident they're not giving up their power."

For child welfare agencies like ACS, then, the question is how to push the ethos of collaboration—the kind of practice that would let domestic violence survivors ask for help without giving up power—closer to the system's front door, where parents first come under investigation.

Dana Hanuszczak is a domestic violence survivor and advocate, working with Voices of Women and the Mayor's Office to End Gender-Based Violence. When ACS was designing A Safe Way Forward,

she was part of a group of survivors that offered the agency advice and feedback. “They have very good intentions,” Hanuszcak says. “A lot of families could be helped by it.”

But it is profoundly hard to accept help, Hanuszcak says, from a system that treats you like an enemy of your own children.

“The most important thing,” Hanuszcak says, “is that survivors need people to believe them. You’ve been told for whatever amount of time that you’re nothing, you’re ugly, you’re fat. Then you get into the system and you have a caseworker who doesn’t believe you. So then you’re even more isolated and embarrassed and ashamed.”

Hanuszcak’s opinion was born of experience. She met her sons’ father through friends at his motorcycle club, just a couple of blocks from her apartment in the Bronx. Their relationship moved fast, Hanuszcak says: She got pregnant; he moved in; things got scary.

She would hide on the fire escape while he stormed in and out of their apartment, threatening to stab her dog and burn her motorcycle. The first time he hit her, she says, she was four or five months pregnant. When she threatened to leave, he said he’d kill himself and she believed him.

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But when the baby, a quiet, green-eyed boy named Jesse, was four months old, Hanuszcak decided her relationship was over. She acquired the first of what would add up, over the next several years, to dozens of orders of protection—each of which, according to Hanuszcak’s account and a thick stack of police reports, Jesse’s father regularly violated.

“He’d drive by my house a hundred times a day,” Hanuszcak says. “Literally. I’d watch out my window and count. He’d leave notes on my car saying ‘I was here.’ He stabbed my tires.”

Hanuszcak does not offer herself up as someone to mess with lightly. The electric purple paint on her Harley matches the polish on her nails; blue liner swoops impeccably across her eyelids; and a barbed-wire-and-roses tattoo winds down her arm, insisting on being read as a metaphor: She’s made a sweet life for Jesse and herself, but she still hasn’t broken free from the fear of those years. “When you’re scared for your life like that, it never really goes away,” she says.

Jesse’s dad won rights to weekend visits—a fact that became increasingly terrifying, Hanuszcak says, as Jesse learned to talk. “He’d come home hysterical,” with disjointed stories about things he’d seen: His dad punched a new girlfriend. She hit him back. The dogs went crazy. In a letter to Family Court, a therapist at Jesse’s preschool wrote that Jesse seemed sad and scared after weekends with his father.

The school called in a report to New York State’s child welfare hotline, triggering the first of several investigations by ACS. At first, she was grateful to have ACS intervene, Hanuszcak says, thinking the agency would help her keep Jesse safe.

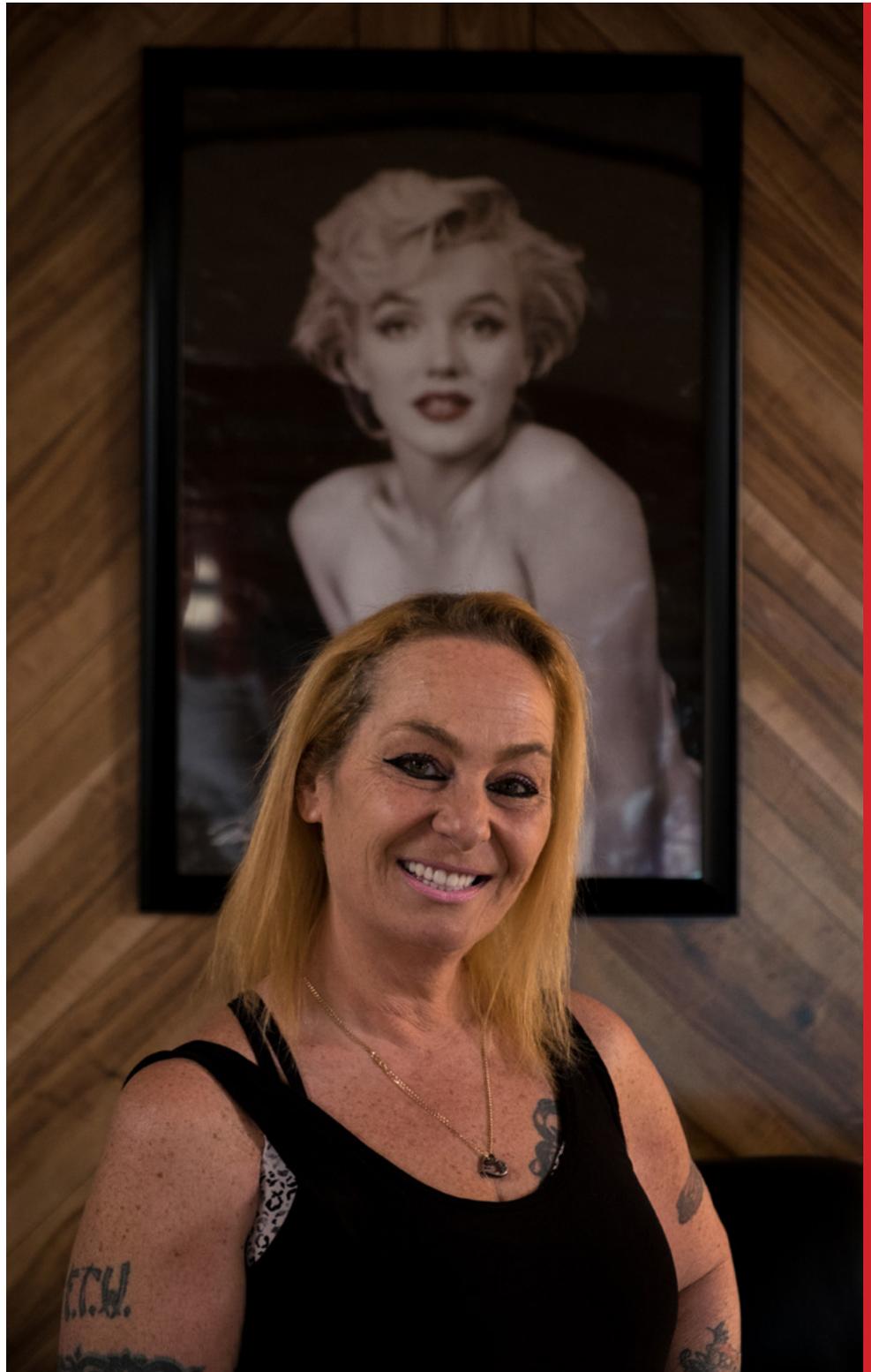
But with each investigation, the scrutiny seemed to turn away from Jesse’s father and land on Hanuszcak.

In case notes, investigators describe a “trusting, loving relationship between mother and child.” And yet, Hanuszczak says, she was accused of coaching Jesse to say bad things about his father, and interrogated about the medication she was prescribed for a back injury. Even though she and Jesse were already in therapy, ACS insisted that she have a mental health evaluation because of her past diagnoses of PTSD and anxiety.

“I’m yelling, ‘This is a domestic violence case!’” Hanuszczak says. “They’re looking at anything and everything else.”

Finally, in 2017, Hanuszczak took Jesse for an evaluation at one of the city’s child advocacy centers, where specially trained, forensic social workers interview kids for evidence of physical or sexual abuse. According to notes from the interviewer—who found Jesse to be credible throughout—Jesse said he was terrified of his father’s fights with his new girlfriend. He’d hide in the backyard while they threw punches and sometimes threatened each other with knives. He disclosed things he’d never told his mother—that the violence sometimes spilled over onto him, and that at least once, his father had taped his mouth, tied him up with an extension cord, and hit him with another.

“The most important thing, is that survivors need people to believe them. You’ve been told for whatever amount of time that you’re nothing, you’re ugly, you’re fat. Then you get into the system and you have a caseworker who doesn’t believe you. So then you’re even more isolated and embarrassed and ashamed.”



After the interview, a Family Court judge ordered that Jesse could only see his dad on supervised visits, which would take place at an ACS field office. Jesse would be safer, but now, every week, Hanuszcak had to face Jesse's dad in a waiting room.

"It was awful," she says. "I'd be driving to the visit and my child is shaking and screaming that he doesn't want to go. I'm scared to death, but if I don't comply, they'll arrest me and then what happens to Jesse?"

"I'm yelling, This is a domestic violence case! They're looking at anything and everything else."

After each visit, Jesse's father was supposed to wait in the building for 10 minutes after Hanuszcak left, so that he couldn't follow her. But Hanuszcak says the rule wasn't always enforced. At the end of one session, according to Hanuszcak's account in a police report, Jesse's father caught up to her car on his motorcycle. "Here he comes, revving it up, revving it up," she says. "We were so scared. I called the ACS worker and told her, 'You're putting my life at risk. Every time you have me come to that building, he could kill me.'"

ACS does not comment on individual cases, but the agency's policy is to keep adults separate when there is an allegation of violence, says Marisa Kaufman, the ACS spokesperson. "When we are aware of any instances of domestic violence, regardless of whether there is an existing order of protection, we would not intentionally have the survivor and person causing harm be in the presence of one another in any ACS office space or ACS-conducted business."

Eventually, Jesse's dad stopped showing up and the visits came to an end. Hanuszcak moved to another state where, she says, she and Jesse are doing well. But she also says that she'll never forget that when she looked for help, she was treated like a suspect.

"All the time, these systems treated me like I was the problem," Hanuszcak says. "This is why women die, this is how women are killed. At the end of the day, if we're not taken seriously, the abusers murder with orders of protection in their pocket."



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