

Date: Sun, 15 Mar 2009 10:36:57 -0600

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From: "Dr. Charles E. Corry" <ccorry@ejfi.org>
Subject: Vote for SB09-068 and destroy a soldier

**Members of the Colorado House State, Veterans, and Military Affairs
committee**

According to the House calendar, on Tuesday, March 17th, you will be asked to vote on SB09-068 Concerning Funding For Domestic Abuse Services.

For the following reasons I ask emphatically that you vote NO on this measure.

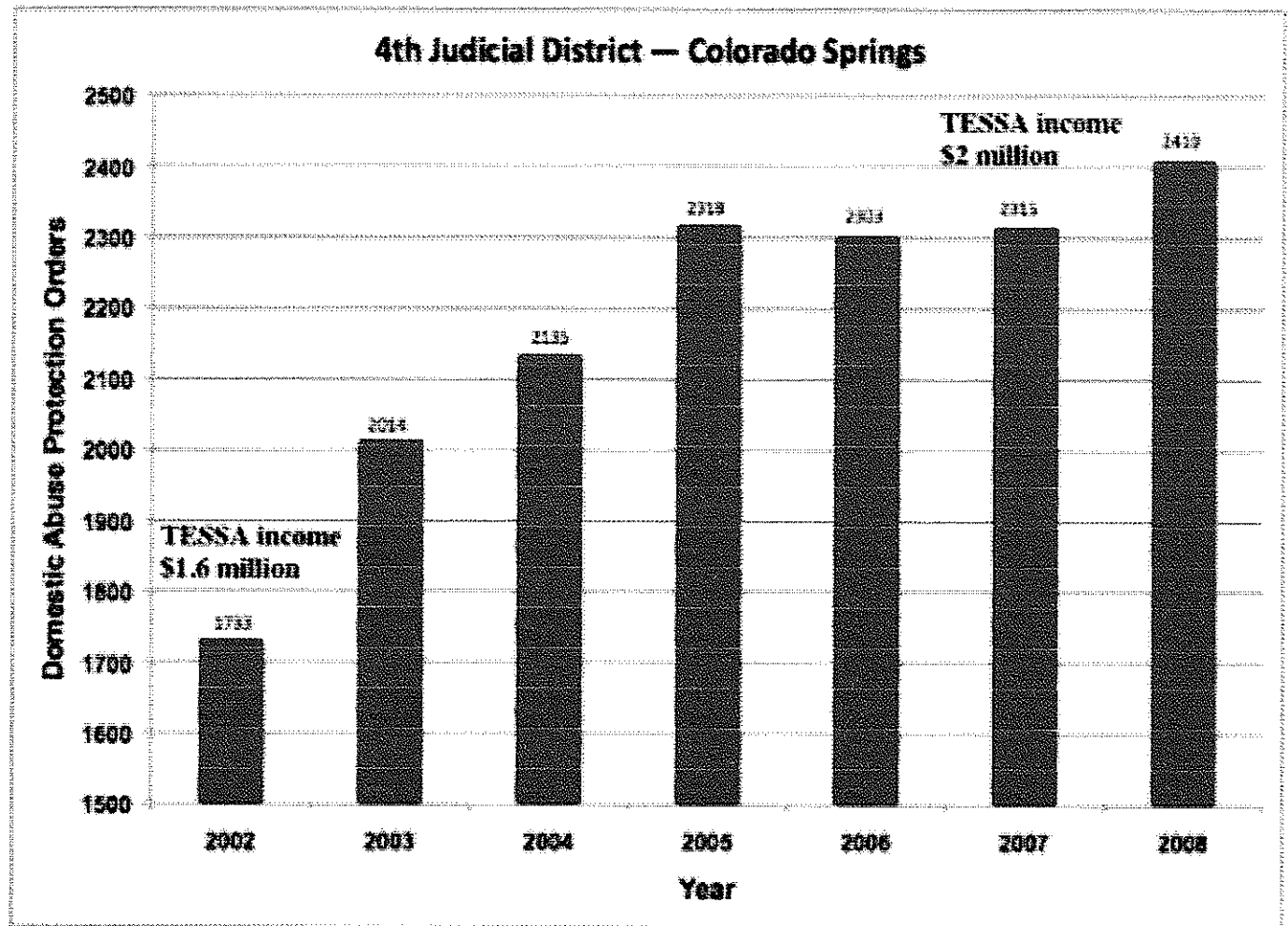
This bill proposes to tax new marriages in order to destroy other marriages. When those couples divorce this bill will tax them again to ensure even more divorces. Of course the bill doesn't read that way but that is the well-understood consequence of what will happen if you pass this measure.

The bill includes a pretense of helping military families. For all practical purposes Colorado Springs and the military are one in this state. Thus, where SB09-068 proposes "*to reimburse domestic abuse programs for services to members of the military and veterans and their families*" the implication is that this money will go primarily to Colorado Springs and TESSA. In my experience TESSA's solution for every domestic problem has been a protection order and a divorce.

In practice what this bill will result in is more charges of domestic violence against military personnel and more protection orders against them. Under the Lautenberg Amendment 18 U.S.C. § 922(g)(8 and 9) anyone convicted of domestic violence or under a domestic abuse protection order cannot carry a weapon or deal with ammunition. As a result the military careers of these men and women are ended and they are summarily discharged, often losing all benefits including medical, retirement, education, housing, and other rewards for their military service. Such convictions or protection orders also result in the loss of security clearances and the loss of all professional licenses. That commonly begins a downward spiral into alcoholism, homelessness, and incarceration all too often ending in suicide.

Ask yourselves how encouraging more of that will help the military?

We don't have an increasing problem of domestic violence in Colorado Springs. In fact, during the past decade domestic violence (DV) cases have **decreased** by 25% according to data provided by the State Court Administrator. But as DV cases have declined the local shelter group, TESSA, which SB09-068 proposes to increase funding for, has steadily increased the number of protection orders in order to increase their funding as shown in the following plot (domestic abuse data from state court administrator, TESSA financial from IRS Form 990).



Note the clear correlation between increase in their funding and number of protection orders in Colorado Springs. Obviously if TESSA's funding is increased again by SB09-068 we can expect more protection orders to be filed against military men.

Protection orders don't protect.

In ten years of research I have been unable to document a single case where such an order actually provided anyone protection against violence. Conversely, I have documented many cases where obtaining a protection order appears to act as a catalyst for murder. Ask yourselves how often you've seen a news report of a woman assaulted or murdered and in the story it notes she had a protection order against her assailant. Isn't it reasonable to assume that funding more such orders, as SB09-068 proposes, will probably result in an increase in violence, rather than the reverse?

PTSD and TBI are not domestic violence.

The problems the military faces in Colorado Springs are huge increases in the numbers of troops suffering from post traumatic stress disorder (PTSD) and traumatic brain injuries (TBI) after repeated tours in Iraq and Afghanistan. We have at least 10,000 troops at Fort Carson who have completed two or more combat tours and it is reliably estimated that 30% of them suffer moderate to severe PTSD and 20% suffer some level of TBI. However, the erratic behavior and nightmares these veterans exhibit might be mistaken for DV and when the police are called for help they often arrest the veteran or soldier. And all too often these troops self medicate with alcohol that compounds their medical and domestic problems.

Any attorneys on the committee will know that it is virtually impossible for a

prosecutor to satisfy the requirement of establishing both mens rea and actus reus beyond a reasonable doubt before a jury of one's peers in a criminal case if the defendant suffers from such conditions as PTSD, TBI, or other physical and mental combat injuries. Such troops need medical treatment, not criminal charges or protection orders that destroy their families, children, and lives.

However, the local shelter group easily side steps that hurdle by helping wives and girlfriends of military personnel to file an *ex parte* protection order under § 13-14-102 C.R.S. That completely sidesteps any due process requirements and simply a statement of fear or the potential for emotional harm will suffice as proof, without the necessity for any evidence, to cause the court to grant a protection order. And in Colorado Springs the court web site refers women to T*E*S*S*A to obtain a protection order. TESSA then helps the women fill out the forms and say the right words.

Note that subornation of perjury is not a crime in Colorado and communications with a victim's advocate are privileged under § 13-90-107(1)(k) C.R.S. As the above plot make clear, as TESSA's funding has increased by at least 25%, the number of protection orders they have obtained has increased by nearly 40%.

Now with SB09-068 it is proposed to give them even more money to destroy more families, children, marriages, and military personnel! I hope it is obvious why you should vote NO on this dangerous legislation.

Providing treatment rather than prosecution

The Equal Justice Foundation (EJF) has been trying since June 2008 to establish a trauma/veterans court to deal with cases in the civilian courts that involve trauma victims such as PTSD or TBI in military veterans. The objective of this specialized court is to divert such cases into treatment rather than incarceration.

In October 2008 the Colorado Dept. of Human Services received a \$2 million grant from DHHS SAMSA to establish such a diversion program and we began working with them in November. A Colorado Springs committee including DHS, VA, a district judge, DA, sheriff, CO Dept. of Labor, and military representatives from Fort Carson was formed in November 2008 and EJF director Robert Alvarez chairs that committee. As an article in the Colorado Springs Gazette makes clear, we are well on our way to getting a pilot program for a veterans court underway. That would be a much more humane and cost effective method of dealing with our veterans than destroying their families, children, and lives as would be the inevitable result of passing SB09-068.

Again I ask you to vote NO on SB09-068 when it comes before you on Tuesday, March 17th!

Charles E. Corry, Ph.D.

Former Marine and father of a disabled Marine Corps veteran
President, Equal Justice Foundation

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Marquis Who's Who in the World, 16th - 26th Editions, 1999-2009.

Marquis Who's Who in America, 53rd - 63rd Editions, 1999-2009.

Marquis Who's Who in Science and Engineering, 4th - 10th Editions, 1998-2009.

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