

DECLARATION OF JESSICA RUTH LENAHAN (GONZALES)

***Gonzales v. United States of America and the State of Colorado*
Inter-American Commission on Human Rights
Petition No. P-1490-05**

I, JESSICA RUTH LENAHAN, under penalty of perjury, declare as follows:

1. I am the Petitioner in *Gonzales v. United States of America and the State of Colorado* (Petition No. P-1490-05) before the Inter-American Commission on Human Rights, filed on December 23, 2005. In 2004, I remarried and changed my last name to "Lenahan," which is the last name that I currently use.
2. I began dating Simon James Gonzales in 1988 in Denver, Colorado. At the time I met him, I had one son, Jessie Anthony Rivera, from a previous relationship. Jessie was born on February 23, 1986.
3. On May 20, 1989, Simon and I had our first child, Rebecca Lynne Gonzales. On October 12, 1990, we had a second child, Katheryn Nicole Gonzales. On March 20, 1992, we had a third child, Leslie Olivia Gonzales. These three children were all girls.
4. I married Simon Gonzales in 1990 in Denver, Colorado, and we lived there until July 1998.
5. Throughout our relationship, Simon demonstrated erratic and emotionally abusive behavior toward me and our children. By 1994, he was increasingly distancing himself from me and our children and becoming increasingly controlling, unpredictable, and violent. He would break our children's toys and other belongings, impose harsh discipline on the children and threaten to kidnap them, drive recklessly, exhibit suicidal behavior, and act verbally, physically, and

sexually abusive to me. I later learned that he also became heavily involved with drugs around this time.

6. On June 16, 1996, Fathers Day, Simon tried to hang himself in our garage, in front of our three daughters. When we discovered Simon in the garage, I held the rope away from him while my youngest daughter, Leslie, called the Denver Police Department. When the police arrived at our house, they handcuffed Simon and took him to the psychiatric ward at Denver General Hospital, where he was admitted. Although the police told me that he would be confined to the mental hospital for 72 hours for a psychiatric evaluation, he was released early.
7. By that time, Simon had become a terrorizing force in my family's life. I initiated divorce proceedings against him soon after he returned from the hospital, but I ultimately chose not to pursue the divorce because my daughters, then aged 4, 6, and 7, told me that Simon told them that he would "die" – i.e. commit suicide – if I left him.
8. Instead, I fled to my mother's house with my four children and only two suitcases of clothes. I returned to my home after approximately one week to get my personal belongings, and brought my brothers along with me for protection. Simon was there, and he called the Denver Police and accused me of breaking into our family home. The police arrived at my house and told me that I had no right to be there without Simon, because I had voluntarily left home, and that they would give me five minutes to gather a set of clothes and basic necessities, such as toothpaste and toiletries. The police also threatened to arrest my brothers, even

after I explained the situation and that my brothers were accompanying me for my and my children's safety.

9. Also around this time, I took my name off all of Simon's credit and debit cards because he was so controlling of our money. Prior to this, Simon would force me to beg or do sexual favors for clothes and other basic necessities. I decided that I would rather "scrape by" than be financially dependent on him.
10. After approximately one month at my mother's house and repeated promises from Simon that he would improve his behavior, I decided to give our marriage one more try. We got back together, and in July 1998, Simon and I moved to Castle Rock, Colorado, which is about 35 miles from Denver, with the hope that this small town would provide a safe and pleasant environment to raise our family. I hoped that Simon's erratic, threatening, and abusive behavior would cease with the move to Castle Rock.
11. Unfortunately, Simon's behavior became increasingly dangerous and unpredictable in Castle Rock. In September 1998, Simon told me he wanted to get a divorce (I later found out that he had been dating someone else), and I happily consented. I knew that if I had initiated the divorce, Simon, who always needed to be the one in control, would not agree to it and might threaten suicide. But his initiation of the divorce, I thought, could be my way out. Throughout the process, Simon kept saying that although he only wanted to have limited contact with the children, he was going to portray me as a bad mother and seek full custody of them.

12. Simon insisted on staying at our house through Christmas of 1998. In January 1999, Simon moved out of the house.
13. Simon continued to engage in threatening behavior toward me and the children after he moved out. He would stalk me outside my house, at my job, and on the phone at all hours of the day and night, often while high on drugs. He and his girlfriend would sit in their cars outside my job or home and stare at me as I entered and exited. He continued to exert financial control over me, withholding child support money and supplemental payments that he knew I was financially dependent upon and that he said I did not "deserve." One day, after bringing our daughters back to my house, he entered the house with them, grabbed them by the shoulders, lined them up, and ordered them to tell me that I should leave the house because I was a bad mother, and that Simon would move into the house and get custody of them. This controlling and abusive behavior worsened once Simon found out that I had been dating other people. Leslie was particularly disturbed by Simon's behavior, and my family and I advised her to call the police and neighbors if she was ever scared of Simon in the future.
14. On May 21, 1999, I applied for and obtained a temporary restraining order ("TRO") from the Douglas County District Court against Simon. (See Petition, Ex. A). In my application, I described several examples of Simon's erratic and abusive behavior – such as his previous suicide attempt and his intentional destruction and discarding of the children's belongings when they were not put away – and explained how this behavior made me afraid that he could harm the emotional health or welfare of me and the girls. The court issued me a copy of

the TRO, which directed Simon not to “molest or disturb the peace” of me or our children, excluded him from our home, and ordered that Simon “shall not enter the family home . . . and shall remain at least 100 yards away from this location at all times.” (*See id.*) The judge specifically found that “physical or emotional harm would result” if Simon were not excluded from the home. The judge who issued the TRO permitted Simon to have one overnight mid-week visit with the girls. The judge told me to keep the TRO on my person at all times, and to call the police if I felt Simon was behaving dangerously or in a threatening manner toward me or the girls, if he came within 100 yards of my home, or if I thought that Simon had violated the terms of the TRO in any other way.

15. I had initially been very hesitant to get a TRO, because I did not believe it could actually protect my children and me from Simon’s abusive behavior. However, my lawyer assured me that under Colorado’s “mandatory arrest” law (Colo. Rev. Stat. § 18-6-803.5(3) (Lexis 1999)), the police are required to arrest people who violate domestic violence restraining orders. Based on this knowledge, I decided to rely on the police for protection from Simon and obtained the TRO.

16. I felt a sense of relief in obtaining the TRO, especially after reading the notice to law enforcement officials printed on the back of the order: “NOTICE TO LAW ENFORCEMENT OFFICIALS: YOU SHALL USE EVERY REASONABLE MEANS TO ENFORCE THIS RESTRAINING ORDER. YOU SHALL ARREST, OR, IF AN ARREST WOULD BE IMPRACTICAL UNDER THE CIRCUMSTANCES, SEEK A WARRANT FOR THE ARREST OF THE RESTRAINED PERSON WHEN YOU HAVE INFORMATION AMOUNTING

TO PROBABLE CAUSE THAT THE RESTRAINED PERSON HAS VIOLATED OR ATTEMPTED TO VIOLATE ANY PROVISION OF THIS ORDER AND THE RESTRAINED PERSON HAS BEEN SERVED WITH A COPY OF THIS ORDER OR HAS RECEIVED ACTUAL NOTICE OF THE EXISTENCE OF THIS ORDER. YOU SHALL ENFORCE THIS ORDER EVEN IF THERE IS NO RECORD OF IT IN THE RESTRAINING ORDER CENTRAL REGISTRY. YOU SHALL TAKE THE RESTRAINED PERSON TO THE NEAREST JAIL . . . YOU ARE AUTHORIZED TO USE EVERY REASONABLE EFFORT TO PROTECT THE ALLEGED VICTIM AND THE ALLEGED VICTIM'S CHILDREN TO PREVENT FURTHER VIOLENCE. YOU MAY TRANSPORT, OR ARRANGE TRANSPORTATION FOR, THE ALLEGED VICTIM AND/OR THE ALLEGED VICTIM'S CHILDREN TO SHELTER." (See Ex. A Petition). Although Simon was unpredictable and threatening, I thought, at least I could now count on the police to arrest him and protect my children and me from him. Following the judge's instructions, I kept the TRO in the glove compartment of my car so that I would have it on my person at all times.

17. On May 21, 1999 I paid a process server to serve Simon with the TRO. I was afraid that Simon would react violently once he was served, so I went with the children to temporarily stay at my mother's house in Denver until the TRO was served. The process server attempted three times, unsuccessfully, to serve Simon. I paid the server to try again. My children and I stayed at my mother's house for approximately one week, during which time I missed work and they missed

school. For financial and educational reasons, and knowing that we had to resume our lives, the children and I returned to our home in Castle Rock. I was terrified that Simon would seek retribution against us for filing the restraining order and that he would feel particularly empowered to do so because he had been successfully evading service. However, I felt like we had no choice other than to try to rekindle some sense of normalcy in our lives.

18. Back in Castle Rock, the process servers told me that Simon was still evading service of the TRO. Simon phoned me to tell me that he knew of the TRO and warn me that, because he had not been served with the TRO, he did not need to abide by its "stay-away" terms. Indeed, Simon even taunted me for paying fees to process servers that he had managed to evade. He told me that when the process servers would arrive at his workplace, his co-workers would cover for him and say that he was not at work. My daughters told me that when they visited with him, he would brag to his girlfriend that he evaded attempts to serve him at home by not answering the front door. Simon thought it was funny that I was losing money and that I could not afford, while he was beating the system.

19. Within a few days after we returned to the house, Simon sent us a clear signal that the TRO did not intimidate him. One day, at the end of May or beginning of June, the children and I entered the house together. Unbeknownst to us, Simon was smoking and drinking upstairs in Jessie's bedroom. Simon walked downstairs. He had a crazed look in his eyes and was wearing my wedding rings on his finger. He taunted me in front of the children and said that if we were

getting divorced, he was taking back the rings because they “rightfully” belonged to him.

20. I immediately called the Castle Rock Police Department (“CRPD”) to report Simon’s presence in my home and his frightening behavior. The dispatcher said she was sending an officer to my house. Simon left before the police arrived. When Officer Stever from the CRPD arrived, I explained what had happened and that Simon had fled when he learned that I was calling the police. Officer Stever responded with something along the lines of, “well he is gone now, so there shouldn’t be a problem.” I told Officer Stever that I thought Simon’s presence in my home, without permission, and his theft of my rings was a serious problem, but Officer Stever did not seem to care. I think I mentioned to Officer Stever that I had a TRO against Simon but that I was unsure as to whether Simon had been served with it because Simon had been avoiding the process server. Officer Stever told me that he was unable to do anything because Simon had not been served with the TRO. I felt disempowered by Officer Stever’s response, especially because I thought that the language on the back of the order directing the police to arrest a restrained person who “HAS RECEIVED ACTUAL NOTICE OF THE EXISTENCE OF THIS ORDER” meant that the police would enforce the restraining order in this case, since Simon was clearly aware of its existence. To my disappointment, neither Officer Stever nor anyone else at the CRPD ever followed up with me about this incident. I assumed this meant that Simon had not been successfully served but was still not sure.

21. On or around Memorial Day (May 31, 1999), approximately ten days after I obtained the TRO, Simon broke into the family home a second time. He changed the locks on the door and the garage. When I arrived at home and was unable to get inside, I called the CRPD. A bald officer from the CRPD, whose name I do not recall, arrived at my house, and I explained to him that I had a TRO but that I was not sure if it had yet been served on Simon, since he had been avoiding service. I showed the officer the TRO. I was very upset, and explained that Simon had broken into my home, probably gaining access to the house through a set of house keys that he had refused to return to me despite my insistence upon it. The officer did not seem concerned about the situation, and responded by scolding me for permitting Simon to have the keys to the house. The officer took the locks off the front door and garage and told me that they would be submitted as evidence and that there would be a subsequent investigation by the CRPD. He left soon thereafter. I was never informed whether there was any subsequent follow-up by the CRPD in relation to this incident and was never contacted by the CRPD again about it. This deeply upset me and made me fearful that the CRPD did not take my calls seriously and would not come to my aid if Simon violated the TRO in the future.

22. To my knowledge, Simon had at least five separate encounters with the CRPD and Douglas County Sheriff's Department – including the two described above – between January and June 1999. I believe two of these encounters involved traffic citations. In late May, a CRPD officer told me that Simon would be coming into the police station to deal with a citation (I am unsure of what the

nature of the citation was), and that if he had still not been served with the TRO by the process server, the police could serve him at that time at the police station. I later learned that Simon arrived at the police station and, without warning, entered unauthorized areas. When officers confronted him, he attempted to flee the station and the police physically restrained him from doing so. Simon was charged with trespass on private property and obstructing the duties of public officials. Someone from the CRPD later told me that Simon had been served with the TRO at the station. I thought I could now count on police enforcement of the TRO, since Simon had been served.

23. On June 4, 1999, Simon and I attended a hearing in Colorado state court to address custody, visitation, and making the temporary restraining order permanent. We both agreed that the judge could make the temporary order permanent. As a result, the judge ordered that the temporary restraining order be made permanent, together with modifications that granted me sole physical custody of the three girls and permitted Simon to have occasional visitation (“parenting time”) with the children. I asked the judge to cut off Simon’s overnight mid-week visit with the children, in light of his recent threatening behavior. The judge granted my request and prohibited Simon from having any more overnight mid-week visits with the children, and also restricted Simon’s mid-week contact with the girls to one weekly “mid-week dinner visit” that Simon and I would pre-arrange. (*See* Petition, Ex. B).

24. I had been flexible in the past about Simon’s visitation with the children, largely out of fear that he would portray me as a bad mother to the judge if I did not agree

to his demands. On June 4, however, I vowed to myself not to "be nice" anymore. Given Simon's recent behavior, I would no longer cave in and let him visit with the girls unless we had an arrangement in advance.

25. After I obtained the permanent restraining order on June 4, 1999 Simon and I agreed that he could take the girls for dinner visits every Wednesday evening, unless we made an arrangement otherwise. Simon would normally spend approximately one hour with the girls during these dinner visits, and he would usually bring them home between 8 and 8:30 p.m. After June 4, Simon never took the girls overnight during weeknights, since the restraining order prohibited overnight mid-week visits.
26. During this period, I was working as a janitor at a private cleaning business that cleaned the CRPD. My permanent assignment was at the local Recreation Center, but I had been filling in for co-workers from approximately June 7 to 21 at the CRPD. Thus, I was familiar with most of the officers, dispatchers, and other employees there. I had previously called into the CRPD's "non-emergency" phone number for work-related purposes. I had the number programmed in my cellular phone's memory.
27. Simon continued to torment and harass my children and me even after the judge made the restraining order permanent. On or about June 18, Simon loosened the water valves on the sprinklers outside my house, flooding my entire yard and the street on which my house was located so that the water was past my ankles. Panicking, I called the CRPD, explained the situation, and requested that an officer come to my house to take a police report. The CRPD never responded.

28. On other occasions around this time, Simon would frequently call me and ask me to come back to him, ask me detailed and personal questions about my life. On one or two occasions, he sent me flowers. I called the CRPD, often on their non-emergency number, to report some of these unauthorized contacts. I remember on one occasion telling the dispatcher that Simon was sending me flowers, when what I really needed was a lawnmower. Like previously, the CRPD did not respond to these calls.
29. Sometime after June 4, during a visit with the girls, Simon cut their nails extremely short, causing them pain. When they returned home, they were visibly shaken, and told me they were afraid of their father. They then revealed to me that two months before, in April 1999, they had been with Simon in his truck when another driver cut him off. In response, Simon began screaming profanities at and threatening the driver, chasing him through the streets and weaving between traffic lanes at high speeds. The girls told me that the CRPD eventually pulled Simon over and gave him a traffic citation. I later learned that the citation directed Simon to appear in court on June 23, 1999, the same day that my daughters were murdered.
30. The girls were terrified after their experiences with Simon's nail cutting, "road rage," and his general behavior, and told me that they didn't want to have any more contact with him. I began investigating how to seek an additional hearing to modify the restraining order and remove the "parenting time" provisions or, at the very least, require supervised visitation.

31. After June 4, 1999, Simon continued to call me and tell me he intended to get full custody of the girls and that he had been building a case of negligent parenting against me. Simon specifically pointed to a bladder infection that Rebecca had (which Rebecca's pediatrician and I had diligently been treating) as evidence of my poor parenting. He told me that he had called the police to inform them of Rebecca's bladder infection and that I was a negligent mother. Laughing, he said he would get custody of the kids by reporting me to the police like this. At the same time as Simon expressed this hostile behavior, he would also ask me to reunite with him, and expressed a desire for us to live as a family again.
32. In total, I called the CRPD's non-emergency and emergency "911" lines approximately four or five times between May 21 and June 21, 1999 to report Simon's threatening and dangerous behavior. Most of the calls were made to the CRPD's non-emergency phone number, because, as described above, I was familiar with the people who worked there and had the non-emergency number programmed in my cell phone. Also, calling "911" in my opinion meant that there was a dire emergency, and I wanted to avoid drawing attention to myself or "crying wolf" when Simon was trying so hard to make me look like a bad mother and remove my custody of the children. To my knowledge, the CRPD used the non-emergency line to communicate with members of the public.
33. On Monday, June 21, 1999, Simon again sent me flowers. I did not call him in response, because I did not want to have a relationship with him.
34. On Tuesday, June 22, 1999, Simon called me on my home phone around noon and said he wanted to rekindle our relationship. I responded, as I had in the past,

that I did not want his flowers and that I would not return to him, especially in light of his recent dangerous behavior. He then told me that he wanted to pick the children up later that day to spend time with them. I refused, noting that it was Tuesday and that his prearranged dinner day was Wednesday. He kept insisting, telling me that he would come by after work that day to pick up the girls. My attorney had advised me that when Simon insisted on picking up the children outside of the pre-arranged visit hours, I should put the girls on the phone to tell him that they did not want to see him and that it was their choice – not mine – not to spend time with him. My attorney thought that Simon would do the exact opposite of what I asked of him, whereas he would pay more respect to the children's requests. I felt terrible putting my children in the middle of my dealings with Simon, but felt obliged to follow my attorney's advice. Since Simon kept insisting upon picking up the girls that evening, I eventually put Rebecca on the phone with him. Rebecca, who told me she did not want to see Simon, got on the phone with him and told him that she and her sisters could not see him that evening because Rebecca's friend was sleeping over that night. Rebecca reminded Simon that his visitation day with the children was Wednesday, and so she concluded: "we'll see you tomorrow, Dad." I got back on the phone, and Simon reiterated his desire to rekindle our relationship. I again refused. He responded, "Ok, well then I know what I have to do." I did not know what he meant by this ominous warning, but it scared me. I have since found out that Simon called a gun dealer soon after hanging up the phone with me.

35. I feared that Simon would come to the house later that day to pick up the children, even though I had forbidden him to do so and even though doing so would violate the restraining order. Simon seemed to thoroughly enjoy controlling me by playing head games with me on the phone, taunting me, and keeping me on pins and needles.
36. At approximately 2:30 p.m., Rosemary Young, Simon's girlfriend, began repeatedly calling me. Without solicitation, Rosemary began telling me intimate details of her sex life with Simon and asked me questions about my sexual relationship with him, which I refused to answer. I had never met Rosemary, nor had I ever spoken to her on the phone before that day. However, I knew of her through my daughters, who had told me that she was often at Simon's house and that they did not like her. I found it bizarre that Rosemary was calling me, repeatedly, and asking me these inappropriate questions.
37. At approximately 4:20 p.m., Rebecca, Katheryn, and Leslie were riding their bicycles on the street in front of my house with Rebecca's friend, Rebecca Robinson. I had previously instructed the girls to check in with me every hour and to let me know if they saw their father or his truck in the neighborhood. More than an hour went by and the girls had not checked in with me, so at approximately 5:30 p.m., I went with my son Jessie outside to look for them. After checking around the neighborhood, we could not find the girls or their bicycles. I suspected that Simon had taken all four children and put the bicycles in the back of his truck.

38. By 5:45 p.m., I was beside myself with worry. Simon had never taken the children without my permission before. The fact that Simon had taken the girls, including Rebecca's friend, without letting me know indicated that Simon was behaving erratically and this heightened my alarm. I did not know what to do, so I asked my neighbor, Ellen Carter, whose husband was a retired police officer, for advice. Ellen was adamant that I call the police. At approximately 5:50 p.m., I called the police station to report my daughters missing. To the best of my recollection, I decided to call the CRPD's non-emergency number, and not "911", because I thought that Simon was playing a mean trick on me and trying to discredit me as a mother, but that he would soon return the girls to my house. I did not know whether to classify this as an emergency yet, and did not want to appear as an alarmist to the police. I also feared that the police would not take my call seriously if I appeared irrational or upset. Thus, I tried to remain calm and composed, and called the CRPD.

39. CRPD Dispatcher Dieck, whom I knew from my cleaning job and from my previous calls to the CRPD to report Simon's behavior, answered the line. I explained the situation to her and told her, as the judge had instructed me to do, that I thought Simon had taken the girls in violation of a restraining order that I had recently obtained against him. I explained that the restraining order gave Simon visitation privileges for a pre-arranged mid-week dinner visit, but that our scheduled day was Wednesday, and I had not agreed to visitation on that day. Dispatcher Dieck told me that she would dispatch an officer to my house.

40. I waited with my friend Heather and my neighbor Ellen for the police to arrive.

While we waited, I took a shower and my friend and neighbor weeded my entire rock garden.

41. At approximately 6:30 p.m., I reluctantly called Simon's girlfriend, Rosemary

Young, to ask her if she knew where Simon and the girls were, but she told me that she did not know.

42. Based on Dispatcher Dieck's statement that she was sending an officer to my

house, I expected the police to come to my house immediately upon receiving my call for help. However, by 7:30 p.m. no officer had arrived. I was getting increasingly nervous, so at approximately 7:30 p.m., I called the CRPD again, this time on the "911" emergency line. I explained again to the dispatcher that my three daughters and their friend were missing, and that I suspected – though did not know for sure – that Simon had taken them. I again told the dispatcher that I had a restraining order against Simon and that it permitted him to have a "dinner hour" visit with the girls on weeknights when he and I agreed in advance to such a visit, but that we had not made such an arrangement for that night. I was getting very worried but was trying to remain calm.

43. At 7:50 p.m., Officer Brink and Sergeant Ruisi from the CRPD arrived separately

at my house, in two different cars. I showed both officers a copy of my restraining order. Sergeant Ruisi took a brief look at it and handed it to Officer Brink. Officer Brink, holding it in his hands, glanced briefly at it and then said to me something along the lines of, "It says here that the children can have a mid-week dinner visit with their father." He then handed the restraining order back to

me. I explained to the officers that the judge had specifically noted that the mid-week dinner visit was to be "prearranged" by the parties, that Simon's normal ("prearranged") visitation night was on Wednesday evenings and I had told him that he could not switch nights, as the girls already had plans for their friend Rebecca to sleep over at my house. I explained that the judge had given his instructions in light of Simon's erratic, destructive, and suicidal behavior and my explicit concerns about Simon spending time with the girls on weeknights, and that I was nervous that the girls had been missing at that point for over two hours. I also noted my concern about Rebecca Robinson, who was presumably with Simon, without her parents' permission and with no warning given to them, and emphasized that I never would have let one of my daughters' friends get in a car with him, especially given his recent "road rage" episode. This was further evidence, I stressed, that Simon and I had not agreed for him to visit with the children that night. I repeated my entreaty that the CRPD search for Simon and the children, and described the color and features of his truck to Officer Brink. Although I did not know Simon's license plate number, I did tell Officer Brink that Simon had a veteran's license plate and that it was transferable between vehicles. Simon had bought a new truck in the time since he had moved out of our home, and although I was unfamiliar with the make or model of this new truck and could only give a general description of it, the CRPD were quite familiar with the truck, as they had given Simon at least two traffic citations for reckless driving in that truck, with the same veterans' license plate, earlier that year.

44. Officer Brink asked me what time Simon typically brought the girls home from their prearranged mid-week dinner visits, and I responded that he usually brought them home around 8:00 or 8:30 p.m. Officer Brink then asked if I thought Simon would hurt the girls, and I replied that I did not think so, but I could not be sure. Officer Brink then stated that there was nothing the police could do, since the children were with their father and the restraining order stated that he had a right to see them on weeknights. I protested, again emphasizing that the restraining order did not permit Simon to have contact with the children that night, but the officers kept interrupting me, putting words in my mouth, and not letting me voice my concerns to them. I could barely even complete a sentence. Officer Brink kept telling me that he didn't see how Simon had violated the restraining order. Flustered, I tried to explain my position again, emphasizing that I was particularly concerned about the situation in light of Simon's recent erratic behavior, and that I had made several calls to the CRPD about Simon's behavior in recent weeks. I also reiterated my concerns about Rebecca Robinson, who was sleeping over, and asked how I should tell Rebecca's mother that her daughter was missing.

45. Officer Brink did not appear to pay much attention to what I was saying. He simply suggested that I wait and call the CRPD if Simon did not return the children home by 10:00 p.m. Unsure of what else I could say or do to make the officers take me more seriously, I agreed to do what they suggested. I had no other option.

46. Officer Brink and Sergeant Ruisi then left my house. Their entire visit lasted between five and ten minutes, and they did not appear to consider the issue to be urgent or disconcerting. I did not see Officer Brink or Sergeant Ruisi taking any notes concerning the content or the case number of the restraining order, a description of the children, or any other relevant information I gave them that might help them locate the children or find the restraining order or other relevant information on their computer systems. They did not ask me if they could take the restraining order in order to make a copy of it. The only thing the police officers agreed to do was drive by Simon's apartment to see if he and the girls were there.

47. Contrary to Officer Brink's written statement in Incident Report #90622074, dated June 22, 1999 (*See United States Response Brief*, Tab B, p. 2), I *never* made a verbal agreement with Simon that he could take our daughters out on the evening on June 22, 1999, and I *never* told anyone at the CRPD that I had made such an agreement. Why would I have called the police if I had made a verbal agreement with Simon that he could take the children? Officer Brink's notations in that same Incident Report that Simon usually communicated with me when he picked up our daughters, and that Simon had made no such communication with me on June 22, 1999 but that I believed the children were nevertheless with him, *are accurate statements.*

48. After Officer Brink and Sergeant Ruisi left my house, I began to panic. My children had disappeared, likely at the hands of their unpredictable father, but the police appeared not to share my concern that something might be gravely wrong.

I remained hopeful, though increasingly uncertain, that the children would soon turn up or that the police would begin to take my concerns seriously. I was weighing my options, wondering if my friends and family and I should go looking for the children ourselves. However, following the police officers' advice, I ultimately decided to stay at home and wait for the police to locate the children.

49. I had been calling Simon's home phone, cellular phone and pager at regular intervals after the children disappeared but he had not answered. Shortly after 8:30 p.m., he finally called me and told me that he had dropped Rebecca Robinson off at her home, and that he was with our three daughters at Elich Gardens, an amusement park in Denver, approximately 40 minutes from Castle Rock. I told him that I had called the police and that the girls had school the next day, and I demanded that he bring the girls home immediately. I stressed that the girls were on a routine and were always in bed by 9:00 p.m. To my surprise, Simon agreed to bring them home. That was the last conversation I ever had with Simon Gonzales.

50. Rosemary, Simon's girlfriend, called me several times after I hung up with Simon. Rosemary asked me about Simon's mental health history, his capacity for harming himself and his children, and his access to firearms. Rosemary told me that earlier that day, Simon had threatened to drive off a cliff. She asked me to meet her at Simon's apartment, or alternately on his paper route (Simon was a newspaper deliveryman), so we could go look for Simon and the girls together. I was alarmed that this stranger was now calling me to ask whether Simon would harm the children and whether he had a gun. Upon receiving Rosemary's and

Simon's calls, I became very concerned that the girls would be traumatized from this time with Simon and that something could be gravely wrong.

51. After getting off the phone with Rosemary, I immediately called the CRPD and informed the dispatcher of my call with Simon. The dispatcher told me that she would send an officer to my house. No officer ever arrived.
52. Shortly after I got off the phone with the dispatcher, Officer Brink called me. He appeared irritated at me from the beginning of the conversation, when he said, "I was just up there. What's the deal?," which I interpreted to mean that he thought I was unjustifiably bothering him. I described my conversation with Simon, told him that Simon was with the girls at Elitch Gardens, and reiterated my serious concerns about the situation. I explained that it was "highly unusual" and "really weird" for Simon to have taken the girls to Elitch Gardens in Denver on a weeknight, and that I was "so worried", particularly because it was almost the girls' bedtime. Officer Brink was short with me, and appeared irritated and unfazed. He simply said "ok" to most of the information I gave him about Simon's whereabouts and about the strangeness of the situation. The more irritated that he became, the quieter I got. I decided it would be best to express to him my concern in as few words as possible, since I did not think he wanted to hear what I had to say in the first place. When Officer Brink finally did respond to me, he told me that he thought that Simon had violated a divorce decree, not a restraining order, and that I needed to address this matter in divorce court. He then told me that he had not seen any restraining order against Simon, and that as a result, there was nothing he could do.

53. I was shocked by this response, because I myself had shown Officer Brink the restraining order earlier that night, in front of two of my neighbors, and had also informed the dispatcher of its existence. I felt like Officer Brink was putting words in my mouth and was not listening to my insistence that the situation that night, where Simon had taken the girls without my agreement, was different from other nights on which Simon and I had agreed to dinner visits *in advance*. I told him that Simon had violated the terms of the restraining order. Furthermore, I could not believe that Officer Brink was “passing the buck” by telling me to address the problem in court. No court was open at 8:30 p.m., and besides, *I was calling the police to report the missing children and Simon's violation of the order, just as the restraining order advised and the judge had directed me to do.*

54. I was even more disheartened when, toward the end of the conversation, Officer Brink said to me, “at least you know where the kids are right now.” I felt this showed that Officer Brink had not listened to anything I had just said, despite the fact that I had called the CRPD three times by that point in the evening, expressed my concern for my children’s safety and well-being, and considered this an emergency. It seemed that Officer Brink was letting himself off the hook in this conversation. He would continue to do so in other calls I had with him later in the evening.

55. I had at least two subsequent calls with the CRPD between the above-mentioned call with Officer Brink and 10:00 p.m. During these calls, I told Officer Brink about Rosemary’s unexpected and repeated calls to me that day and the strange and eerie nature of her questions and comments. I told Officer Brink that

Rosemary had asked me to go looking for Simon and the children with her, and asked Officer Brink to attempt to locate Rosemary because she might know where the girls were.

56. I also asked Officer Brink to immediately dispatch an officer to locate Simon or his vehicle at Elitch Gardens. I explained that there is one way in and one way out of Elitch Gardens, and security guards stand at the exit, so it would be fairly easy to locate Simon and the children. Officer Brink responded that Elitch Gardens was outside of CRPD's jurisdiction. He asked me if I thought the children were in danger, and I responded that I did not know, but that I very much wanted the police to find them. I then suggested that if the CRPD were unable to respond, Officer Brink could call the Denver police and put out a statewide All Points Bulletin (an electronic dissemination of wanted person information, also known as an "APB") for Simon and the children.

57. Officer Brink refused to comply with these requests, stating that the children were with their father and that I had not indicated that Rosemary Young had broken any laws, so there was no reason to put out an APB. He said the APB would needlessly go statewide and would cost the state money, and I should just wait for Simon to bring the children home. His only response to my urgent pleas for assistance was to tell me to wait until 10:00 p.m. to see whether Simon returned with the children.

58. From these calls, I got the distinct impression that the police viewed me as an unjustifiably distressed mother who was simply wasting their time. I felt totally deflated and humiliated. I had learned early on in life to be courteous and

respectful to the police, so I did not express my immense frustration to Office Brink. I tried to give him the benefit of the doubt in these initial conversations, and tried not to contradict him when I thought he was speaking over me, saying something inaccurate, or putting words in my mouth. Furthermore, I knew I had to rely on the police to find my children, and I thought that the police would have far more experience than I in responding to domestic violence calls, interpreting domestic violence restraining orders, and searching for missing children. I still maintained hope that the words "SHALL ARREST" on the back of the restraining order were meaningful and would protect my children and me.

59. From this vulnerable position, I mustered up the courage to ask Officer Brink: "and what if Simon doesn't bring the children home? What do we do then?" Officer Brink simply repeated his request that I wait until 10:00 p.m. to call the police back. Not knowing what else to do, and wanting to remain in my home in case Simon returned with the children, I reluctantly complied with Officer Brink's instructions.

60. Following Officer Brink's instructions, I called the Police Department on the "911" emergency line again at approximately 10:00 p.m. to report that the children were still missing. I reiterated to the dispatcher who answered the phone that Simon was not permitted to have the children that night, and that I was concerned about the situation. I did not recognize the voice of this dispatcher, who kept saying things like, "I don't know what to tell you," and then scolded me for being "a little ridiculous making us [CRPD] freak out and thinking the kids are gone." I was shocked at the awful treatment I was receiving from the CRPD. The

dispatcher told me to call back at midnight if the girls were still not home. By this time, I was deeply distressed, and the CRPD's inaction, coupled by this unpleasant exchange with the dispatcher, was exacerbating my anxiety.

61. Soon afterwards, Officer Brink called me back. We had a very short conversation. I again asked him to put out an APB and contact the Denver police. Again, he dismissed my request, telling me something along the lines of "I don't see what the big deal was." Officer Brink told me to continue to wait and call the police again at midnight if Simon had not brought the girls home. I explained that I needed to go to work, and Officer Brink responded that as long as there was a responsible adult at home, I could go to work and do everything as normal. My friend Heather agreed to stay in my home to wait for the girls, and I took Jessie to work at the Recreation Center with me, so he could help me clean and we could finish early and then go searching for the girls. I had never taken Jessie with me to work before, but decided to on this occasion because I considered it an emergency. Although I wanted to skip work and go directly to look for the girls, I could not afford to do so as a single mother with a small amount of child support money coming in. I desperately needed the income I received from my cleaning job to support my children.

62. I worked that night from approximately 10:00 p.m. to 12:05 a.m., at which point Heather told me, over the phone, that the girls were still not home. At 11:30 p.m., I felt a sense of urgency come over me. While I was at work, Rosemary Young kept calling me. She sounded incoherent and kept putting me on hold because she had to talk to "a friend" on the other line. She kept asking me if Simon would

hurt the girls. I arranged to meet Rosemary at Simon's apartment at 12:10 a.m., after I got off work, in order to begin to look for the children.

63. By midnight, when I got off work, I was desperate and terrified. I did not think that I could depend on the police to locate the children, so I decided to attempt to find the children myself. I drove directly from work with Jessie to Simon's apartment, located at 1094 South Street, #7 (the "Winrock Apartments"), expecting to meet Rosemary there.

64. When I arrived at Simon's apartment at approximately 12:10 a.m. on June 23, Rosemary was not there and no one appeared to be home. I walked around the apartment complex, peeking in Simon's windows and knocking on the door. I did not see any bicycles inside, leading me to believe that Simon and the girls had not returned to his apartment that night. I called the CRPD and told them that no one was home. The dispatcher seemed unfamiliar with the fact that this was my eighth point of contact with the CRPD that evening, and asked me how many girls I had and what their ages were. This struck me as odd, because I thought that if the CRPD had been taking my calls seriously, and if the dispatchers had documented my calls and communicated to each other, they would have at least known this basic information about my children. The dispatcher told me she would "get an officer on the way." I hoped the police would arrive before Rosemary did, as I thought Rosemary would lure Simon there, and it would be important for the police to be there to help me get the girls back. As I waited for the officer to arrive, I became absolutely hysterical and beside myself. No officer ever came.

65. At approximately 12:40, I called the CRPD on my cellular telephone and told the dispatcher that the children were still missing and that there was no sign of them at Simon's apartment. I asked the dispatcher whether the police were on their way to Simon's apartment. The dispatcher told me that no officer would be able to meet me there because there was an "emergency" and all officers were out on different calls. The dispatcher asked me whether I wanted the CRPD to send an officer to my house after the "emergency" calmed down or whether I wanted to come to the police station. Given the prior poor CRPD response to my calls earlier that evening, I decided to go to the police station myself.
66. Soon afterwards, I went with my son Jessie to the CRPD station. I was crying and terrified about the whereabouts and well-being of my daughters. I was so disoriented that I almost fainted. Jessie had to hold me up. I communicated my distress and fears to the dispatchers, who let me into the police station office. One of the dispatchers on duty, Patricia Lisk, knew the history between Simon and me from prior calls I had made to the CRPD. Why, I kept asking myself, was no one responding to my cries for help when everyone knew about Simon's abusive tendencies and the danger posed by the situation?
67. At the CRPD, I met with Detective Ahlfinger. (I later found out that Officer Brink was doing paperwork at the station; but I do not know why he was not assigned to follow through with my case). I explained that I had a restraining order, described the terms of the order, and emphasized that Simon had taken the girls that night *in violation of* the order. I told Detective Ahlfinger that I had shown the restraining order to Officer Brink and Sergeant Ruisi earlier that

evening. I stressed that I was extremely concerned about the situation, particularly after receiving Rosemary Young's alarming phone calls that evening, and was worried that Simon could be contemplating suicide again. I described what the children were wearing that afternoon and the color and features of Simon's truck, and speculated that Simon could be in the Pueblo area with the girls, since he had family members who lived there. I pleaded with Detective Ahlfinger to make every attempt possible to locate Simon and the girls. Detective Ahlfinger asked me if I thought Simon would hurt the children, and I answered "I don't know," praying that he would not. I told Detective Ahlfinger that I was scared Simon could be suicidal, and that he had "lost it." I felt silly reiterating yet again that I was concerned about Simon's destructive and dangerous behavior, as I assumed the CRPD was aware of this information from my numerous calls that night and from their previous contacts with Simon. Yet Detective Ahlfinger treated this as new information. I felt utterly frustrated and helpless – as if we were not speaking the same language – as I tried to communicate this information to him.

68. Detective Ahlfinger wrote down a few notes from our conversation and told me that he would attempt to locate Simon and the girls. I later learned that after taking my statement, instead of taking steps to locate my children, he went to dinner. Detective Ahlfinger never contacted me again, nor did anyone from the CRPD.

69. After my meeting with Detective Ahlfinger, I returned home with Jessie to await the girls' return or news from the CRPD as to their whereabouts. Heather was

there sleeping. Rosemary Young called me at 1:10 a.m. and kept calling me until approximately 3:25 a.m. At certain points she told me that she had not heard from Simon and did not know where he was, and then at other times she would say: "I'm telling him to take the kids home." Rosemary said she had been driving around looking for Simon.

70. At 3:25 a.m., Rosemary called me in a frenzy and told me that "there had been a lot of gunfire." She then put me on hold and then told me Simon was on Wilcox Street, the street on which the CRPD station was located, and that the police had found the three girls dead in the cab of his truck. I screamed an earth-shattering scream, and then immediately got in my car and drove by myself to the CRPD station. I called my mother on the way to tell her the horrible news that Rosemary had told me. I was adamant that Jessie not be woken up because, if this horrible news were true, I wanted him to have one last peaceful night's rest before the news came crashing down and brought about the end of his childhood.

71. I thought about calling the CRPD to tell them that I was coming to the station, but then decided not to, since I did not trust them with this matter anymore. I arrived on Wilcox Street at approximately 3:50 a.m. and saw Rosemary Young, who was parked in the middle of a four-way intersection, across the street. (I recognized her truck from when she and Simon stalked me outside the Recreation Center and when she and Simon picked the girls up for pre-arranged visits.) I parked nearby and quickly walked toward her. CRPD Chief Tony Lane and Carol Malezija, a victim advocate for CRPD, met me on the road, and forbade me from approaching the police station. I said I wanted to see my children, but Chief Lane responded

that I would "contaminate the premises" if I did so. Chief Lane introduced me to Carol Malezija and asked me to accompany her to the Justice Center. I asked him if the girls were dead but he would not answer. Carol asked me to go to the Justice Center and she drove me in my truck to the Center.

72. I waited for hours at the Justice Center until anything happened. Carol was with me the whole time, and would not even let me go to the bathroom by myself or see or call my family members, who by that time had arrived at the Center. I felt like they were treating me like a criminal. I was interrogated and asked if I had any part in the events of the evening, even though I did not know for certain what had happened that night. I asked several times about the status of my children, and Justice Center officials responded in a guarded tone that the girls' status was "unknown." I was extremely upset by this and wondered if it was true that my girls were dead. Soon thereafter, the officials cut off the questioning, saying I was too distraught to continue. Sometime that morning, I remember them telling me that Simon was dead. I remember initially feeling an immense sense of relief, that Simon could not hurt us anymore.

73. I was not allowed to see or call my family and did not receive verification of the girls' deaths until after 7:00 a.m. By then, the story of my daughters' murders and Simon's death was all over the news. When Jessie arrived at the Justice Center to meet me, he asked me: "They're dead, aren't they, Mom?" I nodded my head in disbelief.

74. Officials at the Justice Center refused to let me leave the Center until after 4:00 p.m. on June 23, 1999. It was an absolutely horrific and exhausting experience to

be held there for nearly 24 hours. I later learned that officials had brought Rosemary Young into the Justice Center for questioning and released her at approximately 9:00 a.m. To this day, I cannot understand why the authorities treated me with such insensitivity and suspicion while Rosemary Young was released after only a few hours of questioning.

75. I soon learned that at approximately 3:20 a.m., Simon Gonzales had appeared at the CRPD station and opened fire with a semi-automatic handgun he had purchased earlier that evening, after he had abducted the children. Police officers shot him dead at the scene. Soon after they shot Simon, the CRPD officers found the bodies of my three girls inside Simon's truck. I was told that Simon had murdered the girls earlier that night, and that is the story that made news headlines that morning. However, I never learned how, when, and where the girls died, and whether any CRPD bullets had hit them in the course of the shootout with Simon. I continue to seek this information to this day.

76. Several family members and I asked the authorities to identify the girls' bodies, but we were not permitted to view their bodies until six days later – the following Tuesday, when they lay in their caskets. To this day, my daughters' death certificates and the coroners' reports state no place or time of death.

77. My family and I were also denied an opportunity to examine Simon's truck. The authorities disposed of the truck within three weeks of the girls' death.

78. After the murder of my daughters, I requested copies of the tapes of my June 22 and 23, 1999 calls to the CRPD. I was told that two conversations between me

and the police were never recorded because the dispatchers were “changing the tapes” at the time of the call.

79. Had I known that the police would do nothing to locate my children or enforce the terms of my restraining order, and that they would ignore to my cries for help that night, I would have taken the situation into my own hands by going out with my family and friends to look for the children and possibly buying a gun to protect myself and my children from Simon’s terror. Perhaps if I had taken these measures, I would have averted this tragedy.

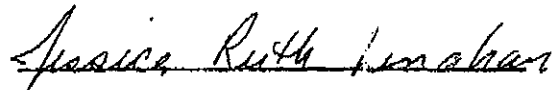
80. I was and remain deeply traumatized by the loss of my three daughters. I suffered and continue to suffer from the consequences of that night, and have undergone extensive counseling for my trauma.

81. Although nothing could ever compensate me for the loss of my daughters, I filed a lawsuit in federal district court in 2000 against the CRPD and Officers Brink and Ahlfinger and Sergeant Ruisi, alleging that they had violated my constitutional right to due process by failing to respond to my repeated calls for help in enforcing my restraining order on June 22 and 23, 1999. I hoped that the lawsuit would result in a public apology from CRPD and condemnation by a judge or jury for the CRPD’s failure to respond to my cries for help. Instead, I went through a tortured legal process where my case was dismissed on arcane legal grounds that I still do not understand to this day. I appealed the court’s ruling, and waited for five long years until the United States Supreme Court affirmed the district court’s decision in June 2005.

82. The Supreme Court's decision deeply dismayed me. I cannot understand how the CRPD and the individual officers who turned their backs on my children and me could not be held accountable for their failure to take reasonable steps to avert this tragedy. I have been left with three children dead and no legal remedy.
83. Furthermore, the Supreme Court's decision made me have serious doubts about the efficacy of domestic violence restraining orders and the "mandatory" nature of "mandatory arrest" laws.
84. Because my case was dismissed on legal grounds, no factual discovery ever took place. My lawyer never had the opportunity to depose the CRPD officers who failed me or obtain many documents and materials related to my case. Furthermore, I never had my "day in court" to tell my story to a judge and jury.
85. I brought my case to the Inter-American Commission on Human Rights because I believe that the CRPD's inaction and the Supreme Court's decision violated my fundamental human rights. I seek redress from the Commission, including an investigation into the events of June 22 and June 23, 1999 that resulted in the deaths of my three daughters; the opportunity to testify before the Commission about the events of that fateful night; monetary compensation for the violation of my rights and the rights of my children; and a change in the laws and policies of the United States and the State of Colorado to ensure protection and support for domestic violence victims and their children and to attempt to prevent future incidents of domestic violence in this country.

I declare under penalty of perjury that the foregoing is true and correct, to the best of my knowledge.

Dated: December 6, 2006
Monrovia, California

A handwritten signature in cursive script that reads "Jessica Ruth Lenahan". The signature is written in black ink and is positioned above the printed name.

Jessica Ruth Lenahan