

CITY COUNCIL
CITY OF NEW YORK

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TRANSCRIPT OF THE MINUTES

of the

COMMITTEE ON WOMEN'S ISSUES,
COMMITTEE ON PUBLIC SAFETY

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June 13, 2011
Start: 10:07 am
Recess: 12:16 pm

HELD AT: Council Chambers
City Hall

B E F O R E:

JULISSA FERRERAS
Chairperson, Women's Issues

PETER F. VALLONE JR.
Chairperson, Public Safety

COUNCIL MEMBERS:
Council Member Chares Barron
Council Member Margaret S. Chin
Council Member Daniel R. Garodnick
Council Member James F. Gennaro
Council Member David G. Greenfield
Council Member Daniel J. Halloran
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Peter F. Vallone Jr.
Opening Statement
Chairperson
Committee on Public Safety

Julissa Ferreras
Opening State
Chairperson
Committee on Women's Issues

Turia Meah
Counsel
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Joan Povolny
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Julissa Ferreras thanks:
Staff of the Committee on Public Safety
Peter F. Vallone, Jr.

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Michael Polenberg
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Tobi Erner
Licensed Social Worker
Legal Services New York City

A P P E A R A N C E S [CONTINUED]

Annemarie Diamanti
Director
Family Law and Domestic Violence Unit
South Brooklyn Legal Services

Written testimony
Association of Legal Aid Attorneys
In support of Resolution 817

Amanda Norejko
Director
Matrimonial and Economic Justice Project
Sanctuary for Families

Ted McCourtney
Director
Sara Burk House
Sanctuary for Families
Member of Steering Committee
New York City Coalition of Domestic Violence
Residential Providers

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Victims Bureau

Ann Grady
Deputy Chief
Appeals Bureau
State Island District Attorney's Office

A P P E A R A N C E S [CONTINUED]

Wanda Lucibello
Chief
Special Victims Division
Brooklyn District Attorney's Office

2 CHAIRPERSON VALLONE: Okay. Good
3 morning everyone.

4 SERGEANT AT ARMS: Quiet please.

5 CHAIRPERSON VALLONE: Welcome to
6 this morning's joint hearing between the Public
7 Safety Committee and the Women's Issues Committee.
8 Domestic violence has been a serious problem here
9 in New York City and the rest of the country.
10 There have been several domestic violence
11 incidents which have claimed the lives of innocent
12 New Yorkers in the past few months.

13 Many of these we hear about and
14 many remain hidden from public view. Clearly we
15 need to do more to punish those responsible.
16 We've had many hearings on this topic. Just last
17 June the Public Safety Committee held a hearing on
18 a resolution supporting a State bill that created
19 the crimes of criminal obstruction of breathing or
20 blood circulation and strangulation in the first
21 degree and second degree. We passed that
22 resolution and shortly thereafter the State
23 legislature passed a bill. And in speaking with
24 the DAs it's been very helpful and it's been used
25 already.

2 So these hearings can and do make a
3 difference. Today we're discussing several
4 resolutions that are pending before the State
5 legislature regarding domestic violence which the
6 City Council supports. It's important to note
7 that we've just found these resolutions have been
8 changing in the last couple of days. So some of
9 what we mention here in the paperwork has been
10 changed and we'll ask the DAs to explain some of
11 the changes that have happened. But not
12 everything that we have written is exactly in the
13 bill as it is today. And because it's the end of
14 the session up there in Albany and they're making
15 changes to these things. But the general ideas of
16 these bills we do support.

17 For example I am the primary
18 sponsor of one of the resolutions which supports a
19 bill put in by Senator Lanza and Assembly Member
20 Cusick in which DA Donovan, who's on the way here,
21 has been very adamant about getting passed and
22 very helpful. And it would create the crime
23 basically of domestic abuse in the first and
24 second degree. And he'll explain why that's
25 important but one of the main reasons is there is

2 a Federal registry for domestic violence offenders
3 who can't get a gun but we don't have a specific
4 domestic violence crime here in New York State.

5 So as I said this is a serious
6 issue and it's on the rise. And in '09 there were
7 62 domestic violence related homicides.

8 SERGEANT AT ARMS: Shut off the
9 ringer please.

10 CHAIRPERSON VALLONE: In '10 there
11 were 75. And already in the first 4 months of '11
12 there have been 32. So that's have the amount
13 that there were in '09 in just the first 4 months.
14 So that's why we're having this hearing. And
15 that's why I'm glad I have Julissa Ferreras co-
16 chairing this who has been the force behind having
17 this hearing. And as busy as we are during budget
18 season we managed to get this together. So I want
19 to now turn the floor over to her and it's a
20 pleasure to work with you.

21 CHAIRPERSON FERRERAS: Thank you.
22 Good morning. I'm Julissa Ferreras, Chair of the
23 Women's Issues Committee and I'd like to thank
24 Chair Vallone for his support and collaboration
25 with the Committee. I'd also like to thank my

2 Committee Staff, Turia Meah, Counsel, and Joan
3 Povolny, Policy Analyst, as well as the Public
4 Safety Committee Staff for their work in preparing
5 this hearing.

6 Domestic violence also known as
7 intimate partner violence affects families from
8 all socioeconomic backgrounds and does not
9 discriminate by age, race, ethnicity, education or
10 marital status. Domestic violence causes not only
11 physical suffering of the victim but also
12 emotional distress of the victim and others
13 involved. In 2010 according the New York City
14 Mayor's Office to Combat Violence there were 75
15 family-related homicides. And the NYPD responded
16 to 249,440 domestic violence incidents within the
17 City. Today we are here to further explore one
18 resolution and four preconsidered resolutions.
19 All five resolutions support bills that would make
20 significant steps to combat domestic violence by
21 either providing services to domestic violence
22 victims or punishing the domestic violence
23 abusers.

24 For instance Resolution 817
25 supports a State bill which would extend the

2 maximum length of time a domestic violence victim
3 can stay at an emergency shelter residential
4 program to no less than 180 days. This would
5 allow the victims more time to heal, obtain
6 medical care and new housing. Other resolutions
7 to be reviewed include support of a bill which
8 would strengthen the laws against repeat offenders
9 by increasing the penalties when domestic violence
10 abuser's abuse reoccurs. A bill that would
11 standardize the process of judges asking for
12 firearms in an attempt to provide greater
13 protection to victims of domestic violence. And a
14 bill that would require the Orders of Protection
15 issued by courts be translated by an interpreter
16 into a language on record during court
17 proceedings.

18 Keep in mind that all the bills
19 have not yet passed in the legislature. They are
20 subject to amendments. Indeed a couple of
21 resolutions that we will be talking about today
22 have gone through slight changes which will be
23 addressed accordingly. So again we are here today
24 to explore the resolutions and hear the opinions
25 of the many experts who are here to testify.

2 Probably not everyone will agree on all the
3 tactics used to accomplish the goals of these
4 bills but I am sure that we can all agree that
5 domestic violence is an insidious problem in our
6 City that deserves no less than our full attention
7 and focus. As we continue on with efforts to
8 combat it to the best of our abilities.

9 It is my hope that today's hearing
10 is informative and enlightening. Once again I'd
11 like to thank Chair Vallone and I look forward to
12 hearing from the witnesses. You may begin.

13 MR. CYRUS R. VANCE JR.: Good
14 morning.

15 CHAIRPERSON FERRERAS: Good
16 morning.

17 MR. VANCE: Good morning Chairman
18 Vallone, Chairwoman Ferreras and members of the
19 Committee on Public Safety and Women's Issues and
20 to Counsel for the Committee. I am District
21 Attorney Cyrus Vance for Manhattan. Thank you for
22 this opportunity to discuss our efforts to end
23 what we believe is a vicious cycle of repeat
24 domestic violence offense.

25 Madam Chairwoman, to follow your

2 points, it's no exaggeration to say that over the
3 past several months newspapers in our City have
4 reported nearly nonstop about headlines related to
5 domestic violence tragedies. Virtually every week
6 the public and families are saddened and indeed
7 horrified by the news of another domestic violence
8 attack or domestic violence related murder. You
9 cite statistics which are startling and I think
10 point to the fact that domestic violence is not
11 just a criminal justice crisis; it's a national
12 health crisis.

13 The NYPD received, as you say,
14 249,000 domestic violence complaints just last
15 year. And every single one of them was a
16 potential serious assault or homicide. Since I
17 took office in January 2010 there have been 13
18 domestic violence homicides in Manhattan alone.
19 And in just the past months numerous terrible
20 homicides have been committed statewide arising
21 out of or related to domestic violence. In my
22 jurisdiction of Manhattan Michael Kenny was
23 indicted for allegedly stabbing Denise Kenny to
24 death in a midtown hair salon where she worked.
25 And Renaldo Lebron was indicted for shooting

2 Massielle Abreu to death in front of their three
3 children in Harlem. In the past 3 months in
4 addition in other counties in this State, 2 police
5 officers have lost their lives while responding to
6 domestic violence incidents.

7 To the Chairs, this, as you know,
8 is only a handful of the highly visible cases in
9 this arena. But headlines simply cannot
10 accommodate the stories, the tragic stories behind
11 the 5,466 domestic violence cases that worked
12 their way through the Manhattan criminal courts in
13 2010. The upwards of 700 domestic violence
14 incidents reported to the Police Department every
15 single day and the 67,761 domestic violence
16 related home visits the Police Department made in
17 2010.

18 These numbers which are by any
19 measure staggering merely represent incidents that
20 have been reported to the authorities. Domestic
21 violence offenses are consistently some of the
22 most underreported crimes. And according to the
23 National Violence Against Women Survey only one-
24 quarter of all physical assaults, one-fifth of all
25 rapes and one-half of all stalking incidents

2 committed against women by intimate partners were
3 in fact reported to police. As these offenders
4 evade prosecution and the attendant criminal
5 repercussion of their actions, evidence shows that
6 they often escalate their criminal behavior.

7 In fact 66% of two-thirds of
8 domestic violence victims who have been killed had
9 prior incidents of abuse that were never reported
10 to the police. Now we're here today because we
11 believe that the criminal justice system can and
12 we also believe has a duty to alter these numbers
13 and sad outcomes.

14 But first we have a responsibility
15 to show that domestic violence reports will be
16 dealt with seriously to prevent the escalation of
17 this violence and to let victims know that they
18 have an opportunity to escape the cycle of
19 violence and find a place of safety. Ironically a
20 major obstacle to better protect women and
21 children are laws that tie the hands of
22 prosecutors seeking stronger sentences for repeat,
23 and I emphasize repeat, domestic violence
24 offenders.

25 Under current New York law unless

2 there is serious physical injury or physical
3 injury causes by a weapon most domestic violence
4 crimes qualify merely as misdemeanors. With only
5 this misdemeanor charge at their disposal,
6 prosecutors across the State see domestic violence
7 abusers repeatedly cycle through the system,
8 serving in some cases, little or no jail time for
9 multiple offenses. Let me put this differently.
10 There is little disincentive for domestic violence
11 offenders to do it again because the penalties are
12 often viewed as so low even for repeat offenders.

13 But Mr. Chairman and Madam
14 Chairwoman the opposite, as you know, is true for
15 the victim. The impact on the victims of repeat
16 domestic violence is severe, unconscionable and
17 often enough fatal. According to the Mayor's
18 Office to Combat Domestic Violence, nearly 40% of
19 battered women are victimized again within 6
20 months. From 2005 to 2010 to prove the point in
21 New York County alone, 679 individuals were
22 convicted of 2 or more domestic violence offenses.

23 When a victim is repeatedly abused
24 but the consequences to the offender are the same
25 every time it sends a conflicting message about

2 the importance of the victim and the gravity of
3 the offense. Domestic violence is simply a matter
4 of life and death, literally. Evidence has shown
5 time and time again that domestic violence can and
6 does turn deadly. And that is why our office and
7 I have worked closely with Senators Martin Golden,
8 Daniel Squadron, Charles Castelli [phonetic] and
9 Timothy Kennedy and Assemblywoman Linda Rosenthal
10 and Speaker Silver to draft Senate 1510-A and
11 Assembly 1986-A, legislation that would do
12 something very simple. And I think simplicity is
13 part of the beauty of this legislation.

14 A legislation that would create an
15 E Felony for repeatedly engaging in domestic
16 violence. Since its introduction it has gained
17 momentum and I'm pleased to report that more than
18 40 legislators from both sides of the aisle have
19 signed on as cosponsors. It is a bipartisan
20 effort and the reasons for this are clear. The
21 bill is simple and straightforward. It enumerates
22 qualifying domestic violence offenses such as
23 aggravated harassment and strangulation, based
24 upon the most common domestic violence convictions
25 that my office saw last year.

2 If an offender is convicted of 2 or
3 more qualifying offenses against a member of the
4 same family or household within the immediately
5 preceding 5 years the offender can be charged with
6 an E Felony. This felony charge for repeat
7 offenders will do several things to break the
8 cycle of abuse.

9 First it sends a message to abusers
10 and victims that the criminal justice system does
11 not tolerate recurring acts of domestic violence.
12 Second, families would be better protected from
13 continued violence because a felony order of
14 protection lasts almost twice as long as one from
15 a misdemeanor case. Under this felony charge,
16 perpetrators of domestic violence would, at a
17 minimum, be eligible for probation supervision for
18 5 years. In more serious cases judges could
19 incarcerate batterers in State prison.

20 And finally when incarceration is
21 necessary and appropriate, these felony offenders
22 would have much better access to reentry and
23 rehabilitative programs. Judges would also have
24 the discretion to require offenders to participate
25 in proven treatment programs with resources to

2 affect recidivism.

3 So to the Committee, in our view
4 and in other words creating an E Felony for an
5 aggravated repeated domestic violence offense
6 isn't simply about jail time. It's about a
7 concerted effort to break the cycle of domestic
8 violence while providing families with safety that
9 they deserve.

10 Now I'm proud to say that
11 organizations throughout New York State have
12 recognized and seen and praised the value of this
13 legislation. The Downstate Coalition for Crime
14 Victims, the New York State Coalition Against
15 Domestic Violence, Vera House of Onondaga County,
16 the New York State Law Enforcement Council, the
17 Violence Intervention Program and Safe Horizon
18 which is the largest domestic violence victim
19 services agency in the United States are all
20 advocates for our bill and are writing letters of
21 support urging its passage. New outlets including
22 the New York Daily News and the New York Observer
23 have also endorsed our bill.

24 And the reason for this support is
25 clear. This bill represents a pragmatic and long

2 overdue recognition that domestic violence is not
3 a one-time event. It is a serious crime that
4 often escalates. Senate 1510 and Assembly 1986
5 would provide prosecutors with a valuable tool in
6 this fight against domestic violence. And I'm
7 very pleased to have the opportunity to be here
8 today to speak on behalf of our office that deals
9 with these cases day in and day out to urge the
10 City Council to pass the resolution calling on the
11 legislature to pass these bills. Thank you very
12 much.

13 CHAIRPERSON VALLONE: Thank you DA
14 Vance for this testimony. I see that you
15 shortened it a little bit.

16 CHAIRPERSON FERRERAS: Yeah
17 [chuckling].

18 CHAIRPERSON VALLONE: Which is--

19 MR. VANCE: [Interposing] I think
20 it was still too long Chairman but--

21 CHAIRPERSON VALLONE: [Interposing]
22 Oh, no, no.

23 MR. VANCE: --I did shorten it
24 just for the purposes of getting you through the
25 morning--

2 CHAIRPERSON VALLONE: [Interposing]
3 No, you're the star witness. You can go on as
4 long as you want. But can you tell us a little
5 bit; are you aware of the changes that have been
6 going on and whether you support them? And can
7 you sum them up for us at this time--

8 MR. VANCE: [Interposing] Well I
9 understand that related to our particular bill it
10 was a change in the naming of the bill
11 principally, calling it an aggravated family
12 offense. And I quite honestly, Mr. Chairman and
13 Madam Chairwoman, I don't think that affects the
14 substance of the bill in the slightest. So it was
15 done at the suggestion of the legislators. I
16 don't think it has a substantive impact on the
17 bill and does not alter the nature of my
18 testimony.

19 CHAIRPERSON VALLONE: So as far as
20 your bill is concerned that's the only change
21 you're aware of--

22 MR. VANCE: [Interposing] That's
23 the only change that I'm aware of, yeah.

24 MR. LEROY FRAZER, JR.: There are a
25 couple of--

2 CHAIRPERSON VALLONE: [Interposing]
3 Sir, just identify yourself for the record.

4 MR. FRAZER: Leroy Frazier,
5 Executive Assistant DA. That was the only major
6 change. There were a couple of words that were
7 put in and perhaps [off mic discussion about mic
8 being on] Is this on?

9 CHAIRPERSON FERRERAS: It needs to
10 be on. There we go.

11 MR. FRAZER: That was the only
12 major change. There are a couple of maybe one or
13 two of the specified offenses that were taken out
14 but we were very willing to have that happen.

15 MR. VANCE: So to answer your
16 question, Mr. Chairman, I think substantively the
17 bill as described in my testimony is in fact the
18 bill we are asking for your support for.

19 CHAIRPERSON VALLONE: Where is the
20 bill now? Has it?

21 MR. VANCE: Oh. Where is the bill
22 now? I do not think it is yet out of Senate
23 Codes.

24 MR. FRAZER: Right.

25 MR. VANCE: And where is it Leroy

2 in the Assembly?

3 MR. FRAZER: It will be going into
4 Rules today in Assembly, in the Assembly.

5 CHAIRPERSON VALLONE: Now can you
6 tell us in your experience how is, if this bill
7 gets passed, how are you going to be helped? How
8 are you more effectively going to be able to
9 prosecute these domestic violence offenders?

10 MR. VANCE: Well it's a great
11 question and let me try to answer it simply. We
12 need judges and prosecutors to have greater tools
13 to affect behavior in the case of repeat domestic
14 violence offenders. Having a felony repeat
15 domestic violence offense, aggravating a
16 misdemeanor to a felony will do several important
17 things. First of all it will let someone know
18 that there is in fact a consequence for repeated
19 domestic violence offenses, a consequence that
20 currently does not now exist in law unless the
21 second offense is a felony or fatal.

22 So an individual who commits an
23 assault against his domestic partner knows now
24 that that cannot continue without severe
25 consequences. And if it does continue which is

2 the second point the tools available to the
3 District Attorney and the judge are expanded. The
4 kind of tools that can make a difference in
5 changing behavior.

6 Being able to have a 5-year period
7 of probation, being able to have the support and
8 supervision of a felony judge as opposed to a
9 judge dealing with an overcrowded docket in
10 misdemeanor court, this kind of attention and
11 potential sanctions for failure to abide by
12 conditions imposed by the judge in a felony matter
13 are going to make a difference, we believe, in
14 affecting recidivism and in making sure that the
15 offender who is charged with a felony toes the
16 line.

17 It permits the felony judge to have
18 more carrots and more sticks in dealing with
19 someone who is in fact now a repeat offender,
20 having previously been convicted of a domestic
21 violence misdemeanor within the past 5 years.

22 CHAIRPERSON VALLONE: And to get a
23 felony now is clearly difficult. You have to
24 either use a weapon which is rare or as you say
25 here there is serious physical injury. I haven't

2 prosecuted in a while but there also has to be an
3 attempt to cause serious physical injury, no?

4 MR. VANCE: Your Honor I mean not
5 Your Honor--

6 [Laughter]

7 MR. VANCE: --I believe so.

8 CHAIRPERSON VALLONE: I'm sorry?

9 MR. VANCE: I believe so.

10 CHAIRPERSON VALLONE: Which makes
11 it even more difficult because there's often
12 serious physical injury but if it's just fists
13 it's very difficult to prove, for you beyond--

14 MR. VANCE: [Interposing] Yes.

15 CHAIRPERSON VALLONE: --a
16 reasonable doubt that there was intent to cause a
17 serious physical injury. So in many, many
18 occasions there is no felony available to a
19 prosecutor without this. And you used an example
20 here in your testimony about somebody who punched
21 a woman 100 times. Different various girlfriends,
22 and yet he can punch them another 100 times and
23 still be charged with a misdemeanor which is
24 absolutely--

25 MR. VANCE: [Interposing] A

2 misdemeanor which by the way has the same level of
3 criminal punishment as fare beating.

4 CHAIRPERSON VALLONE: Yep, fare
5 beating, shoplifting; it's ridiculous, mm-hmm--

6 MR. VANCE: [Interposing] So we are
7 dealing with apples and oranges here which is a
8 gross understatement in terms of comparisons. We,
9 in a nutshell, to the Chair People, we need to get
10 a handle on domestic violence. And the
11 prosecutors and judges need powers to get a handle
12 on it.

13 In our courthouse despite the
14 phenomenal work of the NYPD and law enforcement
15 generally that has driven crime down, violent
16 crime down in the New York State and New York City
17 and indeed around the country, domestic violence
18 has resisted that trend. So what we're doing
19 today simply isn't working well enough. And so
20 now we know enough, having seen the statistics in
21 my office, 5,466 cases last year, an elevation
22 from 2009, we now know that what we're doing and
23 we're doing a lot still isn't getting the job
24 done.

25 And our failure to act in the face

2 of recognizing that what we're doing isn't getting
3 the job done in the way that it should means that
4 we aren't protecting intimate family partners,
5 principally young, women and children, in the way
6 that we should. This bill is simple, easy to
7 apply, and put simply if you do it more than once,
8 you're a repeat offender and we need greater tools
9 to deal with that kind of repetitive behavior to
10 change the offender's behavior and to protect the
11 victim. And that's what we're seeking your help
12 on.

13 CHAIRPERSON VALLONE: And I
14 couldn't agree with you more, support that more.
15 It's two convictions within five years, is that
16 the way it reads?

17 MR. VANCE: Yes.

18 CHAIRPERSON VALLONE: Okay. And
19 have you been able to take a look at the other
20 resolutions at all to determine whether you
21 support them or not--?

22 MR. VANCE: [Interposing] I'm
23 familiar with my brother prosecutor Donovan's
24 bill. We think that is not inconsistent with
25 ours. It's a slightly more, it has more sections

2 to it, it's slightly more elaborate. And we do
3 not see it inconsistence with our bill but we do
4 believe that our bill and I think it's reflected
5 by the support we've received from bipartisan
6 legislators is, you know, is in some sense fair
7 and simple. And, you know, something that is
8 going to be perceived as, oh, I understand how
9 this is going to make a difference without getting
10 into a lot of legislative changes.

11 CHAIRPERSON VALLONE: Well I
12 couldn't support it more and I wanted to thank our
13 Co-Chair for getting this hearing ready to go so
14 quickly because it's important right now--

15 MR. VANCE: [Interposing] Right
16 now.

17 CHAIRPERSON VALLONE: --in
18 considering this to get this done. I'm amazed it
19 hasn't happened yet. We've been joined by Council
20 Members Chin and Barron; I believe I saw him,
21 Charles Barron.

22 MR. VANCE: Good morning Council
23 Members.

24 CHAIRPERSON VALLONE: And--

25 MR. VANCE: [Interposing] It's nice

2 to see you again.

3 CHAIRPERSON VALLONE: --I'm going
4 to turn to over now to my Co-Chair for questions.
5 Thanks.

6 CHAIRPERSON FERRERAS: Good morning
7 and thank you. And many of the questions that I
8 had for you, you've answered, so I thank you. And
9 I thank you for your leadership on this. This
10 means a great deal for women in New York City but
11 for all families.

12 And my question is actually if you
13 would be able to just briefly elaborate, I know
14 that you spoke about the qualifying offenses
15 against a member of the same family or household,
16 who does that include? If a woman is watching
17 this broadcast today, who does that include and is
18 it against--does it have to be against the same
19 person or is it a child or a mother because--

20 MR. VANCE: [Interposing] Well,
21 perhaps you can follow; I'm going to have my
22 counsel...

23 CHAIRPERSON FERRERAS: Of course,
24 thank you.

25 MR. FRAZER: One of the unique

2 things about the bill is that the second offense
3 does not have to be against the same person that a
4 previous offense was committed against. In other
5 words if someone who has been convicted of
6 misdemeanor domestic violence abuse and two years
7 later is with a different girlfriend or a
8 different spouse, if they commit it, they would be
9 qualified for this. And the definition of the
10 household is the same that has been used and
11 expanded the definition that includes all parties
12 who reside together or have an intimate
13 relationship.

14 CHAIRPERSON FERRERAS: Excellent,
15 thank you. Are there, in your experience and I
16 know that you've been trying to address this
17 increase, are there other challenges that you see
18 besides the repeat offenders? Was there anything
19 else that also came up?

20 MR. VANCE: Well I think there are,
21 we have to, this is a little bit like D-Day, you
22 don't just assault the beach, you assault the
23 beach, you use all the tools that are, you know,
24 available to your, you know, to your group. So
25 for example and I hope this is responsive, I'm

2 very hopeful that Manhattan will be able to get
3 funding for a Family Justice Center. Now Queens,
4 Brooklyn and the Bronx all have Family Justice
5 Centers which, as you know and I think the
6 audience knows, is a very successful program where
7 victims of domestic violence and elder abuse can
8 go and under one roof get full service wraparound
9 support from police officers, prosecutors and
10 service providers.

11 So we think that assuming we can
12 get the funding and we believe that we are very
13 optimistic that we'll have one, be able to get
14 that funding for 2012, that providing that kind of
15 service in Manhattan will also be a powerful
16 support for victims of domestic violence as well
17 as a means for us to do better jobs servicing the
18 victims of these offenses.

19 We've also created in Manhattan a
20 special victims bureau which is really more
21 management but essentially we put the head of our,
22 Audrey Moore who is a very skilled prosecutor who
23 is now head of our special victims bureau and
24 under special victims comes domestic violence and
25 sex crimes and child abuse, essentially putting

2 our training and management resources under one
3 person who can advocate and train within the
4 office because we see, you know, the relationship
5 between sexual abuse cases, domestic violence
6 cases, and the like. So we're trying to integrate
7 our training. We are monitoring, I will tell you,
8 these cases very closely now. Our office captures
9 now data on outcomes of DV cases with increasing
10 granularity, helping us understand better what
11 worked and what didn't work.

12 So some of it is, we hope, enhanced
13 prosecution, training and services. Some of it is
14 outside support from the Family Justice Center but
15 bottom line, when you're dealing with a population
16 of repeat offenders who aren't getting the message
17 and the consequence of not getting that message is
18 that particularly women are gravely injured or
19 killed, that, I think, is unacceptable and we need
20 more tools.

21 CHAIRPERSON FERRERAS: Absolutely.
22 Thank you very much. I don't know if we have
23 additional questions. And I'd like to call on
24 Council Member Chin from Manhattan.

25 COUNCIL MEMBER CHIN: Thank you Co-

2 Chairs. Good morning.

3 MR. VANCE: Good morning Council
4 Member.

5 COUNCIL MEMBER CHIN: It's morning,
6 yeah. Thank you for your leadership on this. And
7 I think I agree with you that this bill is really
8 important. From your testimony you are saying
9 that about 66% of domestic violence victims who
10 were killed actually never reported incidents. So
11 when people in the community hear that, oh well,
12 you committed acts of domestic violence, you get
13 arrested, you get a misdemeanor and you're let go.
14 And it's not as serious. And so I think that
15 hurts reporting when people don't feel that this
16 crime is being taken seriously. So I think
17 elevating it to a felony and making sure that
18 people know that the government is taking this
19 seriously will help, I think, in the long run to
20 get people to report crimes of domestic violence.
21 And I think that's a good start.

22 The other thing I wanted to ask you
23 is right now when someone does come forward in a
24 domestic violence case, are there, is the district
25 attorney providing any kind of resources for the

2 victim so that they sort of like stay strong and
3 not, you know?

4 MR. VANCE: Council Member, great
5 question, and the answer is yes. Our office has a
6 very robust group called the Witness Aid Services
7 Unit which is funded by our office and it doesn't
8 receive external separate funding. But Witness
9 Aid, when a victim of domestic violence comes
10 forward, our approach is to obviously have the
11 lawyer responsible for the case reach out directly
12 to the victim and try to get the facts and engage
13 that victim on a personal basis to not only
14 understand what happened but to start to provide
15 the counseling and help that that victim needs,
16 both to get through the criminal justice process
17 and help them with the collateral effects of being
18 the victim of a crime of domestic violence.

19 But it isn't enough. And despite
20 our best efforts and I think they are good
21 efforts, you know, as Council Member Barron, for
22 example, in his jurisdiction has a Family Justice
23 Center, I think that's working very, very well
24 under DA Hines. And we simply, you know, we want
25 to do as well as Brooklyn does for its victims in

2 this arena. And so I think that's going to help
3 our office's work enormously.

4 COUNCIL MEMBER CHIN: Yeah, I mean
5 I think we agree with you that there should be a
6 Family Justice Center in every single Borough.
7 Absolutely--

8 MR. VANCE: [Interposing] Yeah, it
9 would be a great legacy for New York.

10 COUNCIL MEMBER CHIN: --yeah and we
11 will advocate for the one in Manhattan, of course,
12 and whatever we can do to help, we will do that.

13 MR. VANCE: Thank you.

14 COUNCIL MEMBER CHIN: Thank you for
15 your leadership on this.

16 MR. VANCE: Thank you.

17 CHAIRPERSON FERRERAS: Council
18 Member Barron from Brooklyn.

19 [Off mic comment]

20 COUNCIL MEMBER BARRON: Please
21 don't ever do that again.

22 [Laughter]

23 COUNCIL MEMBER BARRON: You're
24 messing up my community cred man, don't do that.
25 And you, please, don't mention me and Hynes in the

2 same breath either, no matter how good the program
3 is.

4 Now that I cleared that air, a
5 couple of things, one, I don't know what we can do
6 about it but there's a stage where domestic
7 violence can be prevented but often the woman is
8 told that unless he does something, you know, we
9 can't do anything. So there seems to be that--and
10 it's a frightening thing--

11 MR. VANCE: [Interposing] Yeah.

12 COUNCIL MEMBER BARRON: --for a
13 woman to hear that she can see all the signs of
14 the coming danger but the system can't do anything
15 unless he makes a move, unless he beats her or
16 unfortunately takes her life. And to me that is a
17 critical part of us battling domestic violence
18 because it just leaves the victim and the family
19 and the children just so helpless. And what can
20 be done about that to strengthen that area?

21 MR. VANCE: Council Member, this, I
22 think is one of the most important points in law
23 enforcement, in terms of what we know today than
24 how we would have approached these issues 20 years
25 ago when I was a young assistant DA. We

2 understand now that whether you're a police
3 department or a prosecutor's office, the goal is
4 affecting long term public safety. And that isn't
5 reactive it is going on offense not just defense.

6 COUNCIL MEMBER BARRON: Right.

7 MR. VANCE: Offense means in our
8 office we have, I mean I was out in the community,
9 I was told, you know, 200 times last year in 2010
10 going to church groups, community groups, elder
11 groups, talking to folks about domestic violence
12 but that's just one person in my office. I have
13 my whole Community Affairs Department out
14 virtually every night going into communities and
15 whether it's talking to teens about healthy
16 relationships or letting the Community Affairs
17 people speak to members in the community in their,
18 you know, in their home setting saying that if you
19 see something, if you see a friend in need, you
20 know, call us. Letting people know that it's safe
21 to call early. Essentially Council Member it is
22 outreach and it is letting people know that you
23 can come, you will be protected. There are
24 experts who are here to help you. And I think it
25 is essentially going on offense as opposed to

2 defense in a concerted effort with members of
3 government, with members of the Police Department,
4 with members of the clergy, with members of the
5 advocacy groups, many of whom are here today. We
6 are united. And we really are united in this
7 area. And I think we, by this effect, by outreach
8 and just persistent outreach, we can make a
9 difference.

10 COUNCIL MEMBER BARRON: Well I
11 agree. And also I think even up in the
12 hierarchical structure of law enforcement I think
13 there needs to be more women. Women who will know
14 the issue and would have power to do something
15 about the issue 'cause oftentimes it's men, even
16 though we are good advocates and supporters, I
17 think having women in more of the power positions
18 in government, of course in government, and in law
19 enforcement would also be very, very helpful
20 because it's really a serious, as we all know, a
21 very serious issue.

22 Even in our communities when I talk
23 to some of the teenagers, the young, the young men
24 in my community and other communities across the
25 board, they, you know, just what it is to be a man

2 and what kind of relationship they're supposed to
3 have with a woman is just really not clear at all.
4 You know, in terms of controlling factors and what
5 the role of a man is supposed to be in a
6 relationship and dealing with anger and conflict
7 and those things that could lead to that.

8 So I just think that we need to
9 have a more creative and aggressive approach to it
10 that, one, focuses definitely on punishment and
11 apprehension, but also prevention which I think is
12 a key role that we all can play and do much better
13 in. Because I just feel for women who have to go
14 through that. And then oftentimes when they're
15 finally fed up and they have to do something then
16 they wind up being arrested for what they have to
17 do to protect themselves. And it's just like a
18 vicious cycle.

19 MR. VANCE: Council Member I agree.

20 COUNCIL MEMBER BARRON: Thank you.

21 CHAIRPERSON VALLONE: Mr. DA thank
22 you very much for your leadership on this issue
23 and for being here today. And the other DAs are
24 on the way. While we're waiting for them we're
25 going to call up a panel of advocates but we,

2 again, we thank you and we look forward to working
3 with you on this and any other issue you find,
4 we'll help you either on that, prosecute these
5 sort of criminals or any others--

6 MR. VANCE: [Interposing] Well--

7 CHAIRPERSON VALLONE: --we're here
8 for you.

9 MR. VANCE: --thank you to the
10 Committee for your leadership, for your great
11 concern on this issue. I think we are at a moment
12 where with your help we can get this passed in
13 Albany. And we will, I promise you, be saving
14 lives. And I think that's what it's about.
15 Thanks a lot.

16 CHAIRPERSON FERRERAS: And we're
17 going to call up our next panel. Michael
18 Polenberg from Safe Horizon, Toby Erner [phonetic]
19 from Legal Services New York and Annemarie
20 Diamanti, South Brooklyn Legal Services.

21 [Pause, witnesses getting settled]

22 CHAIRPERSON FERRERAS: And again if
23 you can testify in the order you were called up
24 and state your name for the record before you
25 begin.

2 [Pause]

3 MR. MICHAEL POLENBERG: Thank you
4 Chairwoman Ferreras, Chairman Vallone, members of
5 the Committees for the opportunity to testify
6 before you today in support of this domestic
7 violence related State legislation. My name is
8 Michael Polenberg. I'm the Vice President of
9 Government Affairs for Safe Horizon, the nation's
10 leading victim assistance organization and New
11 York City's largest provider of services to
12 victims of crime and abuse, their families and
13 communities.

14 Safe Horizon works closely with
15 other advocates, services providers and
16 prosecutors including the Manhattan DA's Office
17 who you just heard from to promote legislation
18 that helps victims of domestic violence and other
19 crimes find safety and stability. We are pleased
20 that the Council today is considering many of the
21 same bills that we are publicly supporting
22 including A2651/S973 extending the length of stay
23 in DV shelter; and the bill you just heard DA
24 Vance talk about, A1986/S1510 creating the crime
25 of aggravated domestic violence.

2 While my testimony today will
3 specifically address these two bills, please know
4 that we support the other bills on today's agenda
5 and really we're grateful to the Council for
6 endorsing sensible legislation to protect victims
7 of crime.

8 The length of stay bill is
9 extremely important, given what we're facing right
10 now. We have the elimination for all intents and
11 purposes of the Advantage subsidy. Certainly I
12 mean there's court action regarding people who are
13 already in housing through Advantage but there's
14 no opportunity for new folks to apply for this
15 subsidy, effect or ineffective as it has been over
16 the years. But for victims of domestic violence
17 when there was a special carve out specifically
18 for victims of domestic violence this was one of
19 the primary ways that folks were able to move out
20 of shelter and into permanent housing.

21 Combined with that you have frozen
22 Section 8 application process and you have
23 extremely long waiting lists of the New York City
24 Housing Authority even when domestic violence
25 victims are considered top priority.

2 What does this mean? It means that
3 many of our clients either move into homeless
4 shelters when they're done with their domestic
5 violence shelter residency, these are homeless
6 shelters, you know, the good and the bad, they're
7 not really equipped to deal with domestic
8 violence. And further more the locations aren't
9 confidentially which is a really important issue.
10 Or tragically they end up moving back in with
11 their batterers.

12 Victims of violence are most
13 vulnerable during the period immediately after
14 they choose to leave an abusive relationship. And
15 without the local rental subsidy to help victims
16 of DV the proposal by Senator Ruth Hassel Thompson
17 and Assembly Member Rhoda Jacobs to extend stays
18 in domestic violence shelters to 180 days is a
19 critical tool for ensuring the safety for the
20 survivors and their children. This bill as you
21 know has passed the Assembly and it is right now
22 in, I believe, Senate Codes. There's a little bit
23 of a holdup there.

24 The second bill I'll speak about is
25 the bill that you just heard DA Vance speak about.

2 You know, I'm going to repeat, you know, what he
3 said. But you heard that prosecutors, you know,
4 unless there is this severe physical injury, loss
5 of organ, protracted disfigurement or death,
6 prosecutors can't charge the offender with
7 anything more serious than one what could be
8 charged with for skipping the subway fare.

9 The bill sponsored by Senator Marty
10 Golden and with help of Senator Dan Squadron and
11 Assembly Member Linda Rosenthal will charge
12 persons who commit two or more DV offenses in the
13 preceding five years with a Class E Felony.
14 Adjusting current laws to account for predicate
15 domestic violence offenders will reduce the
16 prevalence of this crime, remove victims from
17 abusive environments and allow Safe Horizon as
18 well as our colleagues to more effectively reach
19 out to these victims and to avoid such an
20 experience again.

21 We thank the Committees and the
22 full Council once again for its time and support
23 for our mission. We endorse these bills because
24 we believe they will allow Safe Horizon to better
25 engage our clients and help provide a path to

2 safety and stability. As a national leader in
3 providing services and supports for victims of
4 violence we value measures such as the State bills
5 under consideration today that recognize the added
6 measures of protection our clients so desperately
7 need. Thank you and I'd be happy to answer any
8 questions.

9 MS. TOBI ERNER: Good morning.
10 Thank you Mr. Chairman, Madam Chairman, Council
11 Members. I'm also--want to let you know I'm
12 speaking on behalf of both myself and my colleague
13 and she'll be here also to answer some questions.
14 Good morning. My name is Tobi Erner and I am a
15 Licensed Social Worker with the Family Law Unit at
16 Legal Services NYC where I work on behalf of low
17 income survivors of domestic violence.

18 I provide supportive counseling,
19 court accompaniment and case management to
20 survivors while their cases are being litigated.
21 And I advocate on their behalf with regards to
22 public benefits, safety, immigration, language
23 access, police reporting, and housing. I would
24 like to thank the Council Members for your
25 gracious invitation to testify at today's hearing.

2 Today I'm going to speak primarily
3 about Resolution 817 which Legal Services NYC
4 strongly endorses. The passage of Resolution 817
5 would undoubtedly contribute to the safety,
6 stability and self-sufficiency of thousands of
7 domestic violence victims throughout New York
8 City. Especially in New York City given our
9 current crisis in publicly funded housing, it is
10 unfeasible for most indigent victims of domestic
11 violence to become self-sufficient and secure
12 permanent housing within 135 days of entering
13 emergency shelter.

14 Subsidized housing programs like
15 Section 8 and Advantage which have previously
16 assisted DV victims and their transition to self-
17 sufficiency and stability are no longer available.
18 NYCHA wait lists extend for years and to even
19 secure DV priority status a domestic violence
20 victim has to be one of the rare few who has
21 interfaced multiple times with the police system
22 and the court system and has the appropriate
23 documentation to prove it.

24 Even my client Ms. H whose husband
25 threw her down the stairs while she was holding

2 their infant daughter, rendering her unconscious,
3 even she is considered ineligible for DV priority
4 status because she only has one police report to
5 show for the years of abuse she experienced.
6 Furthermore due to the volume of applications
7 NYCHA receives on a daily basis, the wait for
8 review can be lengthy. And all the while the
9 clock is ticking on the victim's time in emergency
10 shelter.

11 Low income victims of domestic
12 violence face unique obstacles which are not
13 encountered by the general homeless population.
14 After fleeing their batterers DV victims are in
15 immediate danger and need to be housed somewhere
16 confidential and secure. It is well documented
17 that victims are at greatest risk of fatality when
18 they attempt to end the abusive relationship.

19 In addition to safe haven, many
20 fleeing victims require supportive services to
21 help them cope with the incredible stress and
22 trauma that they have endured. It is extremely
23 difficult to function let alone focus on self-
24 sufficiency when one is suffering from depression,
25 anxiety or post-traumatic stress as many DV

2 victims are.

3 For example one of my clients has
4 intrusive flashbacks of her ex-husband's abuse
5 which she described as worse than living in a war
6 zone and has vivid, debilitating nightmares to the
7 point where she wakes up with her fists clenched
8 and knuckles completely white. Another client of
9 mine has uncontrollable panic attacks when she
10 even sets foot into the Borough where her ex-
11 boyfriend held her captive, beat and raped her,
12 and tried to throw her out the window of her
13 apartment building.

14 At emergency shelters victims
15 receive case management and other services that
16 address the vast array of complex needs which are
17 unique to the DV population such as securing
18 therapy for themselves and their children, safety
19 planning, and legal referrals. However the
20 results of the current emergency shelter time
21 restriction and the scarcity of DV transitional
22 housing, compounded with the public housing
23 crisis, and the outrageous costs of renting in New
24 York City is that many victims are eventually
25 forced to enter into a general population homeless

2 shelter.

3 Homeless shelters lack the
4 confidentiality that DV shelters maintain and do
5 not have services which address victims' unique
6 sets of needs. Furthermore the shuffling around
7 of the victims undoes progress that these women
8 have made in their healing, in facilitating
9 stability for their children, and in their housing
10 and employment searches, as they're displaced to a
11 new neighborhood or even an entirely new Borough.

12 The threat of homelessness can also
13 have a huge impact on custody proceedings. While
14 the victim's housing situation is unstable the
15 abuser has more of an opportunity to juxtapose his
16 resources against the victim's and make a stronger
17 case for custody of the children. At least while
18 the victim is in emergency shelter it is apparent
19 to the court that she's there as a direct result
20 of the abuser's actions. And that she is in fact
21 trying to protect her children.

22 But by comparison once in a
23 homeless shelter a mother is more susceptible to
24 judicial prejudice that she's unfit, unable, or
25 simply not motivated enough to properly care for

2 her children. Unfortunately for all the
3 aforementioned reasons and faced with the
4 alternative of entering into a homeless shelter,
5 many DV victims ultimately decide to return to
6 their abusers.

7 Consider my client Ms. V, an
8 immigrant woman from Columbia who after 13 years
9 in a sexually and physically abusive marriage was
10 determined to leave her husband after he strangled
11 and made repeated threats to murder her. She came
12 to my office with her luggage and 2 children in
13 tow. And I was able to secure a placement for
14 them in emergency shelter. Once in shelter Ms. V
15 began working with a case worker to plan for her
16 future. Although progress towards self-
17 sufficiency was slow.

18 Her public assistance budget alone
19 was not nearly enough to afford rent in an
20 apartment. Since her husband had never allowed
21 her to work or take classes she had no previous
22 employment experience and her English was very
23 limited. As is common for immigrant victims of
24 DV, these factors were now stunting her employment
25 prospects. Also her children who had witnessed

2 the domestic violence had suddenly begun hitting
3 each other. And she became overwhelmed trying to
4 manage their behavioral problems.

5 Eventually after maxing out her
6 time in emergency shelter, Ms. V was transferred
7 to PATH in the Bronx, the central intake facility
8 for all homeless families in New York City. She
9 spent one night with her children in PATH where
10 she was confused and terrified. The next day she
11 called her abuser. He convinced her to come live
12 in an apartment in the building he owns for which
13 he promised to pay rent but which once again
14 placed Ms. V in a dangerous position where she
15 would be reliant upon the very man who led her to
16 seek shelter in the first place.

17 In conclusion as a social worker in
18 this field I'm deeply familiar with how difficult
19 it is for domestic violence victims to make the
20 decision to leave, especially for those who are
21 financially dependent upon their batterers.
22 Leaving often means uprooting one's children,
23 abandoning one's community and support system. It
24 means not knowing if there will be food on the
25 table. It means juggling countless appointments

2 just to maintain a negligible amount of cash
3 assistance. Most notably as statistics
4 demonstrate, it means an increased risk of
5 violence by the abuser.

6 Given all these factors and the
7 limited low income housing options in New York
8 City we must avoid further displacement of
9 survivors especially when their situations remain
10 precarious. Fleeing victims of domestic violence
11 need time and support to process the trauma that
12 they've experienced and to stabilize their
13 situations.

14 Legal Services NYC urges the
15 passage of Resolution 817 which affords victims
16 more of that precious time. Thank you.

17 CHAIRPERSON FERRERAS: Thank you.
18 Thank you for your testimony this morning. And
19 I'd like to first ask questions specifically to
20 Reso 817 the one referring to the shelters.
21 Victims of domestic violence have 135 days to stay
22 in an HRA emergency shelter. Do--

23 [Spilled water]

24 CHAIRPERSON FERRERAS: Are you
25 okay? Can I get some napkins? Thank you. Yes.

2 We just had a little spill.

3 MS. ERNER: A little spill. It's
4 okay.

5 CHAIRPERSON FERRERAS: Do you know
6 how many victims are able to secure permanent
7 housing within the allotted time as opposed to how
8 many are not able to secure housing?

9 MS. ERNER: The recent statistic
10 that I read and it varies is, thank you very much,
11 is about 20% coming out of emergency shelter. But
12 then when you're thinking just about NYCHA itself-
13 -

14 CHAIRPERSON FERRERAS:
15 [Interposing] Can you specifically, 20% are those
16 that are able to secure housing?

17 MS. ERNER: Correct. Mm-hmm. That
18 was, oh, sorry, thank you. But then in terms of
19 NYCHA itself getting public housing, it's more
20 like 3%, coming out of emergency shelter.

21 CHAIRPERSON FERRERAS: So do you
22 have an average, just in your experience, how many
23 of these victims are forced, as you mentioned with
24 I think Ms. V, are forced to return to their
25 abusers?

2 MS. ERNER: I mean it's--huh, did
3 you want to answer that? It's...

4 MR. POLENBERG: It's a lot. I mean
5 our folks don't have a place to go. The 135, you
6 know, it's 90 days and if you apply for and get
7 and are afforded the extension you can stay for up
8 to 135 days. So that in and of itself it's really
9 90 days with a possible extension up to 135 days.
10 For some of our clients that can't get that
11 extension particularly those who are single adults
12 in a system that is primarily geared towards
13 families, an overwhelming number of our clients
14 after 135 days with Section 8 frozen, with the
15 Housing Authority list long and hard to access,
16 which she did reference, and with Advantage gone,
17 virtually all of them or a very high number are
18 either moving into the Department of Homeless
19 Services shelter system or going back to their
20 batterer. I don't have an exact statistic--

21 MS. ERNER: [Interposing] Mm-hmm.

22 MR. POLENBERG: --but it's
23 overwhelming.

24 MS. ANNEMARIE DIAMANTI: And if I
25 could just add--

2 CHAIRPERSON FERRERAS:

3 [Interposing] Can you just state your name.

4 MS. DIAMANTI: Sure. Annemarie
5 Diamanti, I'm Director of the Family Law and
6 Domestic Violence Unit at South Brooklyn Legal
7 Services, part of Legal Services New York City.

8 A lot of victims don't return to
9 the abuser right away. They'll return after
10 months or possibly years of unstable or insecure
11 housing. So even, you know, we don't necessarily
12 see after 130 days they're moving right back in
13 with the abuser what we'll see it years later when
14 they've been led into a sort of a false sense of
15 safety where maybe the violence has dissipated for
16 the last six months or the last year. And they're
17 tired of borrowing a couch or staying with a
18 family member or moving from apartment to
19 apartment. And their children are tired and their
20 children are frustrated and their children are
21 begging to go back home because they just want a
22 safe secure place to sleep.

23 CHAIRPERSON FERRERAS: And how
24 often, and I know you mentioned it in your
25 testimony but I'm sure you've all experienced this

2 but can you just speak to how often, like in the
3 case of Ms. H, I think it was Ms. H--

4 MS. ERNER: [Interposing] Yeah.

5 CHAIRPERSON FERRERAS: But actually
6 it might not be specific to Ms. H, how often are
7 abusers now using this non-secure housing to be
8 able to get custody of the children? Are we
9 seeing this more prevalent now? And how many of
10 these cases are actually won where women are
11 losing their children to an abuser because the
12 abuser is in a more stable household?

13 MS. DIAMANTI: It's incredibly
14 common. Again it's not always the case that the
15 abuser will win custody but they will drag
16 proceedings out for months or years simply by
17 virtue of the fact that well her housing is
18 unstable and I want more visitation, I want more
19 time, I want custody. And it puts victims in a
20 terrible position where they're simply worn down.
21 They can't fight all of these battles at once.
22 They can't maintain, you know, all these court
23 appearances and therapy and other services and job
24 training and looking for housing and, and, and all
25 of these--

2 CHAIRPERSON FERRERAS:

3 [Interposing] And a little bit of everything
4 happening in your testimony--

5 [Crosstalk]

6 MS. DIAMANTI: This is the disaster
7 panel.

8 [Laughter]

9 CHAIRPERSON FERRERAS: Right.

10 MS. DIAMANTI: So they can't handle
11 everything happening at once. And a lot of times
12 clients will simply give up. They'll settle the
13 case for terms that are very unfavorable or unsafe
14 to them just by virtue of desperation.

15 MS. ERNER: Or in the midst of the
16 custody proceeding, that will be a moment when
17 they'll decide to go back to the abuser because
18 it's so overwhelming. I have a case right now
19 that I'm working on where one of my clients is
20 weighing that in her mind because she feels--and a
21 lot of it's, you know, in her head but it is
22 reflected in judicial prejudice, you know, she is
23 concerned that if she goes in there, into court,
24 he wants custody as well, that they're going to
25 look at her unstable housing situation.

2 You know, he has a beautiful house.
3 He has a, you know, high paying job. He has
4 relatives to support him in day care, you know for
5 the kids. And she's looking at her situation and
6 she's like I don't want to go through this. I
7 might as well either give up or go back to him.
8 So that's another thing that kind of draws the
9 victim back to the abuser. And like Anna was
10 saying, I see it a lot.

11 CHAIRPERSON FERRERAS: Now I know
12 that there's a 45-day extension opportunity. How
13 long does it usually take to get approval for the
14 45-day extension? How often is that approval an
15 approval?

16 MR. POLENBERG: It's more likely to
17 happen, as I mentioned earlier, with families than
18 with singles. So we'll start the application
19 process as, you know, as it becomes clear that
20 after 90 days our client is still not going to
21 have a safe place to live. HRA, you know, will
22 work with us. In most cases they'll grant the 45-
23 day exception, again, with a qualifier that for
24 single adults it's very, very difficult to get
25 that.

2 CHAIRPERSON FERRERAS: And can you
3 just explain what your thoughts are on why is
4 there a time limit on housing or shelter slots for
5 domestic violence but there isn't one for general?

6 MS. ERNER: That's a great--

7 MR. POLENBERG: [Interposing] Yeah.

8 MS. ERNER: --question. I think
9 part of this kind of relates to--

10 CHAIRPERSON FERRERAS:

11 [Interposing] Can you just move the mic so we can?

12 MS. ERNER: Oh, absolutely.

13 CHAIRPERSON FERRERAS: Thanks.

14 MS. ERNER: Well I think another
15 problem compounding this is that there aren't
16 enough shelter beds to begin with in emergency
17 shelter. We need more. That's another thing I
18 wanted to bring up. And I think that's why the
19 turnover, you know, needing to free up shelter
20 beds to bring in new victims. But otherwise I
21 don't know. I mean I think there needs to be--I
22 mean in homeless shelter there is, what, it's 6
23 months at the very least and then that will get
24 extended and there are other options. But within
25 emergency shelters, yeah, there is a much more

2 stringent time limit.

3 CHAIRPERSON VALLONE: I have
4 question regarding repeat offenders as felony
5 offenders.

6 MS. ERNER: Mm-hmm.

7 CHAIRPERSON VALLONE: I just wanted
8 to know from any or all of you about your
9 experiences in treating repeat offenders and what
10 obstacles you're up against. I'm sorry but I
11 don't want to say treating repeat offenders.

12 MS. ERNER: Right 'cause--

13 [Laughter]

14 CHAIRPERSON VALLONE: Treating with
15 the victims of domestic violence--

16 MS. ERNER: [Interposing] Right.

17 MS. DIAMANTI: Well to echo
18 something that was said earlier, I think for a lot
19 of victims it's very frustrating, you know, coming
20 forward and revealing oneself as a domestic
21 violence victim is already a difficult process.
22 It's psychologically a difficult process. And
23 then to have a sense that, you know, nothing
24 really happens. He gets arrested. He gets
25 released the next day. And then that's it. I see

2 no real consequence to his or her conduct.

3 So I think that has a really
4 debilitating effect on victims especially ones who
5 are now she's the one facing all the consequences.
6 She's in shelter. Her children are suffering.
7 She's dealing, you know, with tremendous obstacles
8 as a result and from her vantage point there's
9 very little happening on the other side. So I
10 think one of the important aspects of that bill is
11 the message that it sends that, you know, that for
12 repeat offenders there will be consequence. And
13 those consequences could be very dire.

14 I think that would help victims
15 even just psychologically appreciate that, okay,
16 if I come forward, something, that something good
17 will come of it.

18 MS. ERNER: Right. And without
19 consequences like Anna is saying, there is less
20 incentive to continue reporting because when you
21 do report that creates a whole ripple in your
22 personal life where it does, it can create more
23 danger for you, especially if it's catch and
24 release. He's coming back the next day. He's
25 going to be pretty angry.

2 If you don't have a safe place to
3 go, which as we're talking about a lot of women
4 don't, you know, they're weighing in their minds,
5 well, what's the point then of reporting this if
6 he's just coming right back to me I might as well
7 just, you know, keep the cool, just stay the
8 course and hope, you know, something, you know,
9 something comes of this, something better. But
10 it's like rather than actually reporting, they
11 know there's no recourse through the judicial
12 system.

13 MR. POLENBERG: And when people--

14 MS. DIAMANTI: [Interposing] And
15 if, I'm sorry, if I could just add. I do think,
16 you know, these bills have to be in tandem because
17 now with this potential more serious consequence,
18 that actually can paradoxically put victims in
19 even more danger. So the angrier the abuser will
20 be when he's arrested not just for a violation or
21 a misdemeanor, now it's going to be a felony, that
22 means that it makes it even more critical that she
23 has a safe place to go--

24 MR. ERNER: [Interposing] Mm-hmm.

25 MS. DIAMANTI: --and that she'll

2 have the time that's necessary to sort of get
3 herself in a better position.

4 CHAIRPERSON VALLONE: That's a good
5 point. What people don't realize is when the
6 misdemeanor is the top charge the most you can do
7 is a year in jail. Out of that year, you do eight
8 months because by law you do about two-thirds of
9 the time. You don't get that eight months, nobody
10 is going to plead guilty and take the maximum. It
11 would only have to come after a trial which we
12 don't want to put people through, not if we don't
13 have to. So you're not looking at a lot of jail
14 time unless we make this a felony for repeat
15 offenders.

16 MS. DIAMANTI: And realistically
17 there's very little jail time for misdemeanors to
18 begin with--

19 CHAIRPERSON VALLONE: [Interposing]
20 Yeah.

21 MS. DIAMANTI: --unless someone has
22 a prior record they're not going to be likely to
23 face much jail time at all.

24 CHAIRPERSON VALLONE: you don't
25 want to get me started on that.

2 [Laughter]

3 CHAIRPERSON VALLONE: I've got
4 bills in regarding just general offenses to begin
5 with. We have three of them, right now, we heard
6 testimony you can punch your girlfriend 100 times
7 in the face but if you punch anybody 100 times in
8 the face and still not go to jail. So there's--

9 MS. DIAMANTI: [Interposing] Right.

10 CHAIRPERSON VALLONE: --a lot that
11 we need to do to toughen up our laws. We've been
12 joined by Council Member Greenfield. And we're
13 going to go now to Council Member Chin for
14 questioning.

15 COUNCIL MEMBER CHIN: Thank you.
16 On the issue of emergency shelter, these are
17 shelters that are operated by HRA. Are there
18 another group of shelters like transitional
19 shelters that these victims of domestic violence
20 can be transferred to before they find permanent
21 housing?

22 MR. POLENBERG: Yes. There are
23 transitional shelters, not enough of them. But
24 there are some transitional shelters where the
25 length of stay will be six months or thereabouts,

2 where some numbers of people who have maximized
3 their time in the DV emergency system can move to
4 the transitional system. But it's not nearly
5 enough beds.

6 MS. ERNER: But that's after
7 they're in an emergency shelter. And there's
8 about, I think, last time I checked it was about
9 four that are actually confidential and have the
10 same types of services that would be in an
11 emergency shelter. The rest would be run by
12 other, you know, nonprofits or they're Tier 2's
13 through the homeless system as well. But in terms
14 of like what he was saying, they're very few. And
15 it's not forever either when you're in those
16 shelters.

17 MS. DIAMANTI: Right. And that's
18 three moves, mandated moves within a year for a
19 crime victim. So into emergency shelter, then to
20 transitional and then to permanent housing.

21 COUNCIL MEMBER CHIN: But the
22 bottom line is there's not enough of the emergency
23 or the transitional--

24 MS. DIAMANTI: [Interposing] No.

25 COUNCIL MEMBER CHIN: --to meet the

2 needs. One other question is on the Family
3 Justice Centers, do you have, maybe you could
4 share some of your experiences, do you think that,
5 you know, having a Family Justice Center in the
6 Borough will help the situation?

7 MS. DIAMANTI: About half the staff
8 in my unit is located full time in the Brooklyn
9 Family Justice Center. And I think the technical
10 name is Family Justice Center of Brooklyn, sorry.
11 And I have to say it has been an amazing
12 experience. It's a wonderful experience. We try
13 as best we can to sort of filter all of our intake
14 through the Family Justice Center because the
15 collocated service provision model is such a great
16 resource and such a wonderful resource for
17 victims.

18 And it really does, I think, not
19 only encourage reporting, people coming forward,
20 but it also just sort of eases the process for
21 victims, knowing that I don't have to remember the
22 names of 50 different people and 50 different
23 addresses to go to get services. I can just go
24 there. And it's sort of taken care of. So I
25 couldn't stress enough how critical the Family

2 Justice Center model of service provision is for
3 victims.

4 COUNCIL MEMBER CHIN: Thank you.

5 CHAIRPERSON FERRERAS: Thank you
6 Council Member Chin. And we will be calling up
7 our next panel. Thank you so much--

8 [Crosstalk]

9 MS. DIAMANTI: [Interposing] Thank
10 you very much--

11 MS. ERNER: [Interposing] Thank
12 you.

13 CHAIRPERSON FERRERAS: --for
14 testifying. Do you have a moment there?
15 Everybody's here? Amanda Norejko, Norejko,
16 Sanctuary for Families; Ted McCartney from
17 Sanctuary for Families; and Judith Kahn from
18 Coalition of Resident Domestic Violence Shelter
19 Providers.

20 CHAIRPERSON VALLONE: And while
21 they're taking their seats we've been given
22 testimony from Legal Aid, Association of Legal Aid
23 Attorneys which supports Resolution 817 and we're
24 putting that on the record.

25 [Witnesses getting settled]

2 CHAIRPERSON VALLONE: And if you
3 could testify in the order that you were called up
4 and state your name for the record, thank you so
5 much for coming in this morning.

6 MS. AMANDA NOREJKO: Thank you
7 Council Members and Committee Counsel, my name is
8 Amanda Norejko, I'm the Matrimonial and Economic
9 Justice Project Director at Sanctuary for
10 Families. I will be testifying about the
11 resolutions excluding the shelter resolution which
12 will be discussed by my fellow panelists.
13 Sanctuary for Families is the largest nonprofit
14 organization in New York State dedicated
15 exclusively to the need of domestic violence and
16 sex trafficking, serving over 10,000 individuals
17 each year by providing shelter, counseling, legal
18 assistance, and representation and economic
19 empowerment services.

20 Sanctuary for Families supports
21 enactment of legislation that will increase the
22 safety of victims and accountability of their
23 abusers. However Sanctuary for Families does not
24 support Senate Bill S366A or Assembly Bill A55890
25 establishing the crime of domestic abuse in the

2 first and second degrees.

3 While we support the intention of
4 taking domestic violence seriously and
5 facilitating the enforcement of Federal laws
6 prohibiting the sale of firearms to those who have
7 been convicted of a misdemeanor crime of domestic
8 violence we extremely concerned about the
9 provision of this bill that would defer sentencing
10 for felony domestic violence crimes while an
11 abuser who has pled guilty has the opportunity to
12 participate in a domestic violence anger
13 management, substance abuse treatment, or mental
14 health program.

15 Deferring sentencing and allowing
16 abusers to withdraw their guilty pleas to felony
17 level crimes of domestic violence after completion
18 of such a program does not serve the interests of
19 justice in holding abusers accountable. The New
20 York State Office for the Prevention of Domestic
21 Violence has found that anger management programs
22 are not effective at stopping the violence.

23 Anger management programs operate
24 based upon the theory that a perpetrator is unable
25 to control certain violent or angry tendencies as

2 a result of a triggering factor. Such an approach
3 supports two dangerous myths. First that the
4 victim shares responsibility for the violence by
5 triggering it and second that the batterer is not
6 responsible for the violence since he is unable to
7 control it.

8 Domestic violence is a pattern of
9 gender based intimate partner dating or family
10 violence with a central dynamic of power and
11 control. It is characterized not by an inability
12 to control angry feelings but rather a gender-
13 based sense of entitlement to use violence and
14 threats of violence to exert control over a
15 victim.

16 This bill, unfortunately, supports
17 a mental health approach to addressing criminal
18 behavior. Numerous studies have shown that anger
19 management as well as most batterers' intervention
20 programs do not cure perpetrators of domestic
21 violence and do not stop the behavior once the
22 programs end. In addition tying domestic violence
23 to substance abuse or mental health problems,
24 although these issues are present in some cases,
25 gives the false impression that these are the

2 causes of the domestic violence and that fixing
3 them will end the violence. This is not usually
4 the case.

5 Of significant concern to us is the
6 danger this would pose to victims. It can give
7 victims a false sense of safety because the victim
8 may mistakenly believe that such treatment
9 programs can end the violence. After the abuser
10 completes the treatment program and the court has
11 allowed withdrawal of the guilty plea the victim
12 may believe they can safely resume their
13 relationship. However such programs do not
14 eliminate the power and control dynamics of
15 domestic violence and the victim will be exposed
16 to serious danger of future harm.

17 A strong law enforcement approach
18 that treats domestic violence as a crime and holds
19 perpetrators accountable is the most effective
20 method of combating domestic violence and
21 protecting victims in our City.

22 With regard to the Resolution T-
23 2011-3144, Sanctuary for Families supports Senate
24 Bill S1003A and Assembly Bill A2494A which would
25 require judges in criminal and family court

2 proceedings to inquire as to the possession of a
3 firearm by the defendant or respondent when an
4 order of protection is issued. While current law
5 provides for mandatory and permissive revocation
6 or suspension of firearm licenses when an order of
7 protection is issued, not all judges make an
8 inquiry into whether the perpetrator is already in
9 possession of a firearm. This law would help the
10 courts to identify more cases in which a firearm
11 should be removed from the possession of the
12 perpetrator before it can be used against the
13 victim.

14 Sanctuary for Families also
15 supports the amendment of the Family Court Act and
16 criminal procedure law to ensure that litigants
17 who are not fluent English speakers will
18 understand the terms of any orders of protection
19 issued on their behalf or against them. We
20 support Assembly Bill A6113 and Senate Bill S1870
21 requiring the court to direct interpreters to
22 translate the essential terms and conditions of
23 any order of protection or temporary order of
24 protection. I would like to note it would be
25 better if the translations were delivered in

2 writing so that the litigants would have an
3 opportunity to have them, to take them with them
4 as a reference for what the court has ordered them
5 to do or to refrain from doing. But having them
6 orally translated is certainly a step in the right
7 direction.

8 And finally the creating of the E
9 Felony of aggravated domestic violence, Sanctuary
10 for Families supports the creation of a crime of
11 aggravated domestic violence aimed at enhancing
12 penalties for serial offenders. Research shows
13 that nearly 40% of battered women will be
14 revictimized within 6 months of the first attack.
15 Domestic violence perpetrators frequently commit
16 multiple crimes against each victim and often
17 abuse additional victims after their first victim
18 flees the abusive relationship.

19 The commission of repeated crimes
20 of domestic violence is one of the warning signs
21 of potential domestic violence homicide. Under
22 current law there are often minimal consequences
23 for repeated attacks. Domestic violence
24 perpetrators rarely face felony charges or are
25 sentenced to any probation or jail time. So there

2 is little deterrent effect as a result of
3 prosecuting them. Victims and abusers learn that
4 the criminal justice system is unlikely to hold
5 perpetrators accountable.

6 Creating the crime of aggravated
7 domestic violence would allow victims to receive
8 longer term orders of protection as a result of
9 the felony convictions of their abusers. Research
10 shows that final orders of protection deter
11 repeated acts of domestic violence in 80% of
12 cases.

13 It would further send a critical
14 message to domestic violence victims and their
15 abusers as well as to society as a whole that our
16 criminal justice system takes domestic violence
17 seriously, holds perpetrators accountable, and is
18 committed to protecting the safety of victims.

19 I would just like to add there have
20 been some last minute substantive changes to the
21 bill of which I am aware if you have questions and
22 would like to ask. Thank you very much.

23 MR. TED McCOURTNEY: Good morning.
24 Thank you for the opportunity to address you
25 today. My name is Ted McCourtney. I work for

2 Sanctuary for Families as the Director of Sara
3 Burk House, a transitional domestic violence
4 shelter in the Bronx. I am also a member of the
5 Steering Committee of the New York City Coalition
6 of Domestic Violence Residential Providers, a
7 coalition that includes all of the organizations
8 providing domestic violence shelter in New York
9 City.

10 MS. JUDITH KAHAN: My name is
11 Judith Kahan. I am the CEO of the Center Against
12 Domestic Violence. For 35 years the Center has
13 worked towards a society free from violence by
14 transforming the lives of victims and raising
15 awareness in our community. Our organization
16 opened the first domestic violence emergency
17 shelter in New York State and the provision of
18 safe shelter is the core of the Center's mission.

19 I stand before you as the Founder
20 and Co-Chair of the New York City Coalition of
21 Domestic Violence Residential Providers. The
22 Coalition's positions are guided by one principle:
23 safety. We advocate so that the women, children
24 and, yes, men who turn to us for refuge from
25 unspeakable abuse can either enter our shelters'

2 safety and can leave with the tools to build a
3 secure life free of intimate partner violence.

4 The maximum stay in a domestic
5 violence shelter is currently 90 days with a
6 possibility of a 45-day extension. There are four
7 key reasons for extending the time in a shelter to
8 a maximum of 180 days.

9 Longest days avert homelessness and
10 safety risks. People timed out of shelters
11 without secure or permanent transitional housing
12 move in with family and friends known to their
13 batterers or worse yet move back to the batterer.
14 And the large number that go into the City
15 homeless shelter system are not safe from their
16 batterers.

17 Two, longest days increase the
18 likelihood that the person leaving the shelter
19 will have found an apartment. Studies show that
20 the current limit of 135 days does not provide
21 enough time for victims to find permanent housing.
22 People staying longer in shelter such as domestic
23 violence Tier 2 shelters increase their rate of
24 finding permanent housing from 11% to 65%.

25 Longest days increase the

2 likelihood that people, persons, leaving shelter
3 have found a job. The current time limit is too
4 short for someone to find both employment and
5 housing in a safe location before her shelter stay
6 expires. Should the City and State reach an
7 agreement on a new housing subsidy system,
8 domestic violence victims will likely still need
9 to work or obtain or retain housing subsidies?

10 Three or four, sorry, longest days
11 give people and families traumatized by domestic
12 abuse and violence support to heal and rebuild
13 their lives to avoid returning to an abusive
14 situation. Allowing enough time for victims to
15 heal from trauma, provides re-traumatizing
16 families by having them move multiple times into
17 different shelter systems.

18 MR. MCCOURTNEY: The only proven
19 deterrent to domestic violence is safe shelter.
20 The investment in the first 90 to 135 days of
21 emergency shelter is tremendous. Increasing
22 shelter stays by another possible 45-day extension
23 will increase the return on that initial
24 investment enormously and very importantly, longer
25 stays are cost-neutral.

2 There are a finite number of spaces
3 available for domestic violence survivors seeking
4 emergency shelter in New York City. Allowing some
5 of these people to stay longer does not add any
6 cost to the system. Reducing the number of times
7 a family is transferred from shelter to shelter
8 reduces the trauma for these families, increases
9 their stability, and prevents them from going to
10 the already overburdened homeless system thereby
11 saving the City money.

12 Permanent housing, even subsidized
13 housing, is significantly more cost effective than
14 shelter. And the cost of continued victimization
15 can be counted in expensive emergency room visits,
16 lost wages for survivors missing work, trauma to
17 families, and the emotion and physical toll on
18 victims and their children.

19 For the foregoing reasons Sanctuary
20 for Families, the Center Against Domestic Violence
21 and the New York City Coalition of Domestic
22 Violence Residential Providers strongly urges the
23 passage of this resolution. Thank you.

24 CHAIRPERSON VALLONE: Thank you
25 all. I have one question. Amanda, you testified

2 about not supporting the one resolution.

3 MS. NOREJKO: Yes.

4 CHAIRPERSON VALLONE: But you
5 support most of it apparently. And you have
6 problems with the treatment part.

7 MS. NOREJKO: Well that's the part
8 we have the most problems with--

9 CHAIRPERSON VALLONE: [Interposing]
10 Right. Yeah--

11 MS. NOREJKO: --there are other
12 concerns with it as well.

13 CHAIRPERSON VALLONE: --okay. But
14 when it comes to the treatment part I also would
15 like to hear from the State Island DA's Office who
16 are sitting in the back, Dan Donovan is at a
17 funeral and won't be able to get here but they'll
18 be testifying next. So I hope they can assuage
19 our concerns.

20 Do you have questions Julissa?

21 CHAIRPERSON FERRERAS: I have--yes.
22 I actually just have a brief question to you. I
23 know that--are there any treatment suggestions
24 that you would be able to make? I know that there
25 are certain, the anger management, we can say that

2 doesn't work, but are there treatments anywhere
3 across this country that we can look into beside
4 the arrest which I think is important. You know
5 we want to be able to give them as much time, in
6 my opinion, as possible. But is there anything
7 you can speak of in your experience?

8 MS. NOREJKO: No. There have been
9 many studies done about various interventions,
10 batterers' treatment programs, anger management
11 programs, various types of programs. None of them
12 have been found to be effective at eliminating
13 domestic violence that I have heard of. I mean I
14 think there are some that have claimed the ability
15 to reduce some of the violence but I think what
16 often happens is even if some of the physical
17 violence that one can see or document or that
18 leaves a mark ends because they have had the
19 opportunity to speak with the other batterers in
20 the program and find out how to avoid getting
21 caught again, what typically happens is the power
22 and control dynamics continue.

23 And I think we're most concerned
24 about the danger to the victim thinking it's now
25 safe to go back with this abuser because the

2 abuser has been through a treatment program.
3 There really isn't a cure for domestic violence in
4 a mental health sense. So that's why these
5 programs are really not effective.

6 CHAIRPERSON FERRERAS: Hmm. Okay.
7 Yes absolutely.

8 MS. KAHAN: I would just like to
9 add a point to my testimony. In relation to the
10 question that Ms. Chin asked before, the domestic
11 violence regulations of 453 Regs, they were passed
12 at least 35 years ago when there were much more
13 housing options available. And they have not been
14 changed since although the advocates have been
15 advocating to have a re-haul of the regs. The
16 homeless regs are under 900 regs. So they have,
17 the different, the major difference between the
18 homeless and the domestic violence is the homeless
19 have termed goals, in terms of their stay, where
20 domestic violence has a finite time in which they
21 can stay in a shelter.

22 Also prior to having Work
23 Advantage, domestic violence, we had DV Advantage
24 from HRA. When we had DV Advantage, where a woman
25 did not have to find a job until she was out of

2 the shelter and established in a new community
3 because she cannot return to her Borough of origin
4 and she has six months to reestablish herself,
5 find day care for the children and schools, 78% of
6 them remained in permanent housing. This is why
7 we're desperate to also have a rental subsidy.

8 And the question that Mr. Barron
9 asked, it's that time before someone gets hurt
10 where the women really sense that they're going to
11 be hurt, if they haven't been hurt already, where
12 they might not have a police report, where they
13 are able to enter into emergency shelters.

14 CHAIRPERSON FERRERAS: And if you
15 could speak to and I think someone else testified
16 to this before but in your experience, the NYCHA
17 requirement to identify--

18 MS. KAHAN: [Interposing] As a
19 batterer.

20 CHAIRPERSON FERRERAS: --someone as
21 a DV victim so they can have that priority, it
22 seems to have gotten a little bit more
23 complicated. And the prior panel testified that
24 you have to have two police reports. Can we speak
25 to the requirements to have this DV priority?

2 MS. NOREJKO: Well the requirements
3 are very difficult for most victims to meet.
4 There are specific documentation requirements that
5 are also time-limited. So if for example they
6 reported an incident more than 2 years ago and
7 then another incident occurs, the old incident
8 report is no good anymore. So there are time
9 limit requirements. And if there are problems
10 with their applications and they have to re-file,
11 some of their reports may have timed out as well.

12 So we've always found that those
13 requirements have been really way to onerous for
14 most victims to be able to take advantage of it.
15 In addition even after they do so and they receive
16 the priority, the waiting lists are extremely
17 long.

18 CHAIRPERSON FERRERAS: Okay. DO
19 you have any questions?

20 CHAIRPERSON VALLONE: No. We've
21 been joined by Council Members Gennaro and
22 Halloran. And Garodnick is chairing another
23 hearing but stopped by. And Council Member
24 Greenfield has a question.

25 COUNCIL MEMBER GREENFIELD: Thank

2 you very much. I want to thank the Chairs for
3 this very important hearing and I want to thank
4 you all for testifying today. I'm wondering a
5 couple of things if I may. You know some of the
6 testimony we've heard including from the District
7 Attorney and from yourself is that it seems like
8 the criminal justice system does a very poor job
9 of protecting victims of domestic violence.

10 In your respective opinions, is
11 that because of the laws that are in place or is
12 it because of maybe there aren't the resources or
13 is it because of judges who aren't imposing
14 sentences? I mean what are the reasons why, and
15 quite frankly as someone who's not familiar with
16 this hearing, this testimony, it's jarring. You
17 know, to just hear that, you know, in some cases
18 the DA's testimony, in one case there's a fellow
19 who was convicted 100 times? And won't go to
20 jail? I mean what's going on over here from your
21 perspective as advocates and service providers?

22 MS. NOREJKO: Well I think it's a
23 combination of problems. There are problems from
24 the minute a victim attempts to access the
25 criminal justice system, law enforcement, for

2 assistance. You know, there are some problems in
3 terms of the way the NYPD handles the calls. It's
4 not always consistent. And from that point--

5 COUNCIL MEMBER GREENFIELD:

6 [Interposing] For example. That's important
7 information for the public safety Committee to
8 consider--

9 MS. NOREJKO: [Interposing] Yeah.

10 COUNCIL MEMBER GREENFIELD: --so
11 can you explain to us in a little more detail.

12 MS. NOREJKO: Right. Well there
13 are a limited number of domestic violence police
14 officers in each precinct, a very limited number.
15 They aren't necessarily the ones who are handling
16 an emergency call. It could be any patrol officer
17 that handles a call. Not all the patrol officers
18 seem to be handling domestic violence cases with
19 the same level of sensitivity. We've been doing
20 pretty extensive studies.

21 We'll probably be coming out with a
22 report at some time in the near future about some
23 of the problems that we've seen with enforcing
24 things such as the mandatory arrest law. There
25 are certainly problems with doing primary

2 aggressor analysis. What the police officers are
3 sometimes doing is failing to make primary
4 aggressor analysis and threatening to arrest both
5 parties including the victim.

6 So we have a lot of problem with
7 victims having to choose between themselves being
8 arrested or saying, oh, no, fine, please,
9 nothing's wrong, please don't arrest either of us.
10 So that's the first problem with access point
11 number one.

12 And then of course there are the
13 laws. I think the laws that prosecutors can
14 utilize have improved. We have the strangulation
15 law that passed last year which I think is a huge
16 improvement. But there still are many, many acts
17 of domestic violence that are charged as
18 misdemeanors and are pled out as violations. So
19 that's not even a misdemeanor conviction, it's a
20 violation.

21 I think part of that has to do, of
22 course, with resources and the volume in the
23 system but I think that there are things that can
24 be done such as this aggravated domestic violence
25 as a E Felony that could help to address the

2 problem of offenders cycling through the system.

3 COUNCIL MEMBER GREENFIELD: Well,
4 you know, I appreciate that. And, you know, Mr.
5 Chair I would actually like to recommend that we
6 consider perhaps doing an oversight hearing on how
7 the City and specifically the NYPD interacts with
8 victims of domestic violence. It sounds like that
9 might be helpful.

10 I have just one final question; you
11 know we get between 70 and 80 people who watch
12 this at night at 3:00 o'clock in the morning. In
13 case, that's sad but true, but in case someone out
14 there needs the information, what do you recommend
15 to someone who's currently a silent victim of
16 domestic violence? What's your best
17 recommendation on how they should go about?

18 MS. NOREJKO: Well there are a
19 number of resources available. There is, of
20 course, the Domestic Violence HOPE Line, 1-800-
21 621-HOPE that Safe Horizon administers as well as
22 any of our agencies have information available on
23 the internet. Sanctuary for Families has a
24 website.

25 MS. KAHAN: Center Against Domestic

2 Violence does also.

3 MS. NOREJKO: So--

4 COUNCIL MEMBER GREENFIELD:

5 [Interposing] And if you can, I'm sorry, we can't
6 hear you--

7 MS. KAHAN: [Interposing] Center
8 Against Domestic violence also has a website.

9 COUNCIL MEMBER GREENFIELD: Okay.
10 Thank you.

11 MS. KAHAN: And a hotline.

12 CHAIRPERSON FERRERAS: What's the
13 hotline number?

14 MS. NOREJKO: Our hotline, we have
15 our number is (212)349-6009. We also are
16 available as a walk-in at any of the Family
17 Justice Centers in Brooklyn, Queens or the Bronx.
18 So I think one of the best ways for victims to
19 access services in those Borough is to walk in, 5
20 days a week, Monday through Friday, between 9:00
21 and 5:00 to one of the Family Justice Centers
22 where they will be screened for a variety of needs
23 and receive holistic services from the variety of
24 organizations including Sanctuary for Families who
25 are present in those Family Justice Centers to

2 provide them with services.

3 COUNCIL MEMBER GREENFIELD: Thank
4 you. And do you have a website?

5 MS. NOREJKO: Yes. Sanctuary for
6 Families has a website which is...

7 COUNCIL MEMBER GREENFIELD:
8 SanctuaryForFamilies.Org?

9 MS. NOREJKO: SanctuaryForFamilies-
10 -yeah. Dot-ORG.

11 COUNCIL MEMBER GREENFIELD: Thank
12 you very much.

13 CHAIRPERSON VALLONE: Thank you
14 Council Member. Thank the three of you for coming
15 down and giving us such informative, helpful
16 testimony. And we will continue to work with you
17 on this as we move forward.

18 We're now going to hear from the
19 State Island DA's Office, Yolanda Rudich and
20 Grady. And if there is anyone else here to
21 testify, you've got to fill out a form because we
22 don't have anyone else right now so this will be
23 the last panel.

24 [Witnesses getting settled]

25 CHAIRPERSON VALLONE: Thank you

2 both. I want to thank you for the help your
3 office has been, pointing us in the right
4 direction and insisting that we move quickly on
5 this because of what's happening up in Albany.
6 And we're getting a copy of your testimony so we'd
7 like to hear it. I would also like you, if it's
8 not here, to address the concerns of the last
9 panel. Thank you.

10 MS. YOLANDA RUDICH: Thank you so
11 much Mr. Vallone and other members of the City
12 Council. I'm Assistant District Attorney Yolanda
13 Rudich. For the last 18.5 years I've been Chief
14 of the State Island District Attorney's Sex
15 Crimes, Special Victims Bureau. My bureau handles
16 sex crimes, child abuse, domestic violence, and
17 elder abuse. With me is Assistant District
18 Attorney Ann Grady who is a member of our Appeals
19 Bureau. She's the Deputy Chief. And she's the
20 drafts person of the bill in which we are asking
21 your members' support.

22 District Attorney Dan Donovan would
23 have loved to be here today to testify before you.
24 Unfortunately he had to attend a funeral. But I
25 am honored to be here to talk to you about the

2 need for this domestic violence legislation.

3 I speak in support of Domestic
4 Violence Act 2011 which is currently under
5 consideration by the State legislature. The bill
6 numbers are A5890 which is sponsored by
7 Assemblyman Michael Cusick and currently in the
8 Assembly Codes Committee and S3666 which is
9 sponsored by Andrew Lanza and is in the Senate
10 Codes Committee.

11 As most of you know District
12 Attorney Dan Donovan has made it one of his top
13 priorities to try to combat domestic violence.
14 Every morning District Attorney Donovan starts his
15 day by examining every arrest that occurred on
16 Staten Island in the previous 24 hours. He
17 reviews the arrest reports, makes notes for
18 assistant district attorneys, and then places them
19 in the piles based on the crimes such as domestic
20 violence, such as violent felonies, DWIs, drug
21 cases. By far the largest pile that he has each
22 and every day are those for domestic violence
23 crimes.

24 And though he has been the Staten
25 Island District Attorney for nearly 8 years and a

2 prosecutor for more than 15 years, he as well as
3 other members of our staffs are appalled by the
4 number of individuals who find it acceptable to
5 physically assault their spouse or intimate
6 partner. Obviously it's not just Staten Island
7 that is affected. Every year in New York City the
8 police file nearly a quarter of a million domestic
9 incident reports. And we owe it to the victims we
10 serve to strengthen the laws so that we can
11 effectively combat these crimes.

12 First and foremost we recognize
13 that domestic violence is unique when compared to
14 other crimes. It is the one crime in which the
15 perpetrator and the victim are intimate with each
16 other and either share a household, have a child
17 in common, or are in a marriage or domestic
18 partnership. Currently there is no crime
19 denominated domestic violence in New York. Our
20 State treats violence between spouses, ex-spouses,
21 boyfriends, girlfriends, same sex partners the
22 same as a random barroom brawl with no real way of
23 tracking offenders.

24 DA Donovan's proposal creates for
25 the first time the crime of domestic abuse. And

2 it does include treatment programs modeled on our
3 drug treatment courts as well as increased
4 penalties where appropriate. Let's talk about
5 some of those positive aspects that our
6 legislation can effectuate.

7 First the bill would create two new
8 crimes to the penal law: domestic abuse in the
9 second degree, a misdemeanor punishable by up to
10 one year in jail, and that would be fore domestic
11 crimes involving physical injury in the context of
12 a domestic relationship; also domestic abuse in
13 the first degree, an E Felony for cases of a more
14 serious nature and for repeat domestic abuse
15 offenders. These proposals would help stop
16 domestic violence before it escalates by
17 increasing punishment and deterrence, holding
18 offenders accountable.

19 Domestic violence often begins
20 small, if you will, but grows, escalates as the
21 offender gets away with it. Nearly half of the
22 homicides in Staten Island each year are domestic.
23 And in most of those cases there is a history of
24 prior acts of violence between the parties.

25 The changes that are proposed in

2 our legislation and the tougher penalties they
3 carry will give prosecutors another tool to combat
4 this crime and save lives. Our legislation is
5 aimed to help us effectively prosecute cases by
6 requiring mandatory arrests for certain domestic
7 violence cases in which the victim actually
8 sustains physical injury.

9 Currently under mandatory arrest
10 policies if an abuser commits assault in the third
11 degree, that is intent to commit physical injury
12 and causes the injury, that is mandatory arrest.
13 However if we cannot prove an intent to commit the
14 physical injury but nevertheless by the
15 defendant's actions he causes such physical
16 injury, we might only have harassment and
17 harassment is a violation for which the police
18 cannot currently make an arrest if it was not
19 committed in their presence.

20 Thus a lot of the initial violent
21 acts committed against the victims that would not
22 be captured in the system under our bill might
23 very well. And that's what we seek to do.

24 This bill also creates a system for
25 court ordered treatment programs. And I heard the

2 testimony just previous to me from Sanctuary for
3 Families, an organization that does magnificent,
4 magnificent work on behalf of victims. We work
5 with them. I'm happy to support a lot of their
6 programs 'cause I've seen them work. I disagree
7 with some of the testimony. And I'd like to
8 explain to you what our bill proposes and why I
9 think it is helpful.

10 Our bill proposes that there be a
11 provision for mandated treatment programs such as
12 mental health programs, drug treatment, alcohol
13 programs. This would be with the consent of the
14 district attorney, the court and the victim. And
15 it's not in every case. It's in those cases
16 where, one, it might make a difference, and two,
17 where that may be the only way we can get the
18 victim's cooperation in order to prosecute the
19 case.

20 And it does not leave a defendant
21 crime-free or conviction free. This is a scheme
22 in which the defendant would plead to the felony
23 and then upon appropriate and acceptable
24 completion of the program, then have the felony
25 replaced by a misdemeanor conviction. That is one

2 that would be on the defendant's record.

3 We've gone so far in trying to hold
4 offenders accountable in our criminal justice
5 system. As I said I've been doing this 18.5
6 years. And as prosecutors we are looking more and
7 more to relieving the victim of the burden of
8 having to testify, of feeling guilt about having
9 to put her children's father away. And so we do
10 try and do evidence based prosecutions without the
11 victim's testimony.

12 The reality is that in so many
13 cases we do need the victim to testify. We may
14 not have all the evidence needed to prove beyond a
15 reasonable doubt that the defendant committed the
16 crime and get a conviction. And the reality is
17 that so many of the victims come in and they want
18 to have their abuser get help. Obviously in
19 severe cases this kind of program is not
20 acceptable and wouldn't be offered. But there are
21 case where we have to recognize that may be our
22 one way of getting victims' cooperation.

23 These cases--

24 CHAIRPERSON VALLONE: [Interposing]

25 Hold on one second--

2 MS. RUDICH: --yes.

3 CHAIRPERSON VALLONE: --only
4 because I have to step out in a few and I wanted
5 to address this issue with you 'cause I happen to
6 agree with both of you. I don't think, I'm a
7 former prosecutor, I prosecuted hundreds of
8 domestic violence cases, and I don't think in most
9 cases treatment works. But I also understand the
10 huge obstacles you're up against and in many cases
11 trying to get victims to cooperate.

12 MS. RUDICH: Yes.

13 CHAIRPERSON VALLONE: And many
14 times they won't unless you have this sort of a
15 situation in place. But it is in place. Right
16 now you can--can't you do this already? Why don't
17 you--how does this change existing law?

18 MS. RUDICH: Well this codifies it
19 and there are many judges that don't want to put
20 this in place without a legislative enabler. And
21 so this program codifies it and it says something.
22 By putting it into law in the black and white of
23 our penal codes it means that we are seriously
24 putting forth an opportunity to get help where
25 help is needed and also to encourage the victim

2 that we want her cooperation in the system and
3 also to get her other help, as you've heard from
4 some of the service providers.

5 So that we believe that the
6 codifying court-ordered treatment options is very
7 significant. Also because we are asking that New
8 York create laws called domestic abuse, we will be
9 able to get the misdemeanor domestic violence
10 convictions into the FBI's National Instant
11 Criminal Background Check system. That's a system
12 which will prevent domestic abusers from being
13 able to purchase firearms.

14 We so much thank the City Council
15 for the opportunity to consider our legislation
16 proposals. And we ask for your support in that
17 regard. Thank you so much and I will take any
18 questions.

19 CHAIRPERSON FERRERAS: Thank you.
20 Thank you for your testimony. Could you speak to,
21 on average, how long is treatment when the
22 treatment, these options that we have? So they
23 would, it would be a felony while they're in
24 treatment and then after they finished treatment
25 is the misdemeanor or it's dropped to a

2 misdemeanor?

3 MS. RUDICH: The defendant would
4 plead guilt to the felony.

5 MS. ANN GRADY: And both--

6 MS. RUDICH: [Interposing] And to
7 the misdemeanor. And then the court would order
8 an appropriate treatment program. Currently, for
9 example, under our drug laws, we have inpatient,
10 residential programs. We have outpatient. It
11 depends on the circumstances and what's needed.
12 And then if the defendant completes the program
13 satisfactorily, the victim and the prosecutor
14 would make a recommendation to the court and then
15 ultimately if the court consents the felony would
16 be dismissed and the misdemeanor would be left in
17 place.

18 CHAIRPERSON FERRERAS: And on
19 average, just the time, you know, is it three
20 months, is it six months, is it a year of
21 treatment?

22 MS. RUDICH: It could be longer
23 than that. It could be 18 months, 2 years. It
24 depends on the nature of the treatment, how many
25 different programs there are and also the

2 monitoring. We want, obviously, sanctioned
3 programs.

4 CHAIRPERSON FERRERAS: Okay. And
5 do you have any sense of how often domestic
6 violence crimes are not captured by the NICS
7 database?

8 MS. RUDICH: Well currently they're
9 not at all because we don't have something called
10 domestic abuse or domestic violence. Assault 3
11 could be, as I said, barroom brawl or intimate
12 partner. And there's no way for the FBI to go
13 through our convictions in New York State and cull
14 out which ones are which.

15 CHAIRPERSON FERRERAS: And just for
16 the testimony so that we can capture this, do you
17 think that under this law domestic violence
18 victims would be provided equal protection under
19 this bill?

20 MS. RUDICH: Our aim is to provide
21 domestic violence victims with protection. And we
22 do that by a comprehensive program, as you see, to
23 hold offenders accountable. And also this
24 legislation doesn't preclude all the other
25 provisions we have in place. I know in our office

2 although we haven't been blessed yet with a Family
3 Justice Center in Staten Island, one we would hope
4 to have at some point.

5 We do have advocates, we work
6 closely with Safe Horizon, with Sanctuary for
7 Families, with all the different City agencies
8 because we want to make sure that victims feel
9 some sense of safety and know that they're not
10 alone, know that there are people that care about
11 the. And as prosecutors we want to. It's so hard
12 for people to say, you know I want to get into the
13 system and go to a district attorney's office. So
14 we have done incredible work to try and get word
15 out there that we welcome people contacting us so
16 we can get them help.

17 CHAIRPERSON FERRERAS: Thank you.
18 And you know earlier I don't know if you were in
19 the room but Chair Vallone and some of the Council
20 Members had kind of mentioned the hope that every
21 Borough should have a Family Justice Center. The
22 Queens Family Justice Center in particular is an
23 amazing ally in fighting and combating domestic
24 violence.

25 So we, I know many of the members

2 are very supportive of being able to afford that
3 opportunity to all New York City residents
4 regardless of what Borough you live in. And we
5 just happened to be lucky in Queens that we have
6 one. But we also know how important it is because
7 we have one. So thank you for adding that to your
8 testimony.

9 I'd like to call Council Member
10 Halloran of Queens.

11 COUNCIL MEMBER HALLORAN: Thank you
12 Madam Chair, Mr. Chair. No one is a bigger
13 supporter than Dan Donovan than I am and I'm glad
14 to see him working on creative solutions. But as
15 the Chair mentioned, in Queens, we already have
16 the Queens Family Justice Center. We have
17 integrated domestic violence parts where our
18 judges are actually doing everything you're
19 suggesting, more or less, as a matter of
20 partnership between the courts, the prosecutor's
21 office and the advocates.

22 I'm a little concerned every time
23 we write more laws. I'm always concerned that
24 reach becomes further than we should go. I'm very
25 concerned about the second part of the bill

2 granting concurrent jurisdiction between criminal
3 court and family court. Let me tell you why.

4 I've been a prosecutor and I've
5 been a defense attorney. For the last 10 years
6 I've been a defense attorney. There are many
7 family court parts which take a slanted view of
8 how the constitutional protections of the 4th, 5th
9 and 6th amendment are applied in those courtrooms.
10 Now that's not to say that this isn't a tremendous
11 problem and we don't have to start dealing with it
12 in a more effective way but I think Judge Brown
13 has found an excellent balance in the Family
14 Justice Center and the integrated domestic
15 violence courts.

16 What concerns do you have for
17 procedural constitutional rights as they are
18 applied in family courts, which I'm sure you're
19 well aware do not follow as scrupulously the
20 requirements of the criminal procedure law that
21 exists inside of a courtroom that's required to
22 because they're a criminal court of competent
23 jurisdiction?

24 MS. RUDICH: I appreciate what
25 you've said about the Queens program. I've

2 watched Scott Kessler the Domestic Violence Bureau
3 Chief through the years, single-handedly, almost,
4 create a wonderful, wonderful program combating
5 domestic violence in Queens. I'm a great admirer.

6 Like Queens we have in Staten
7 Island an integrated domestic violence court. So
8 I have seen the interplay of the criminal
9 proceedings and the family or matrimonial 'cause
10 in Staten Island our integrated domestic violence
11 court handles misdemeanor domestic violence cases
12 where there is a pending family court or a
13 matrimonial. So I have seen it. And I have seen
14 how victims are so appreciative of the fact that
15 they in effect have one-stop shopping.

16 And that is the model for a Family
17 Justice Center as well. And truly the interests
18 can be best protected by having everything in one
19 place. But we don't always have every case in an
20 integrated domestic violence court. And while,
21 yes, family court has different rules and
22 regulations, we still need to recognize that there
23 are many times when victims will go to a family
24 court as a first resort. And may I tell you one
25 in particular and it's one that we should all keep

2 our eye on. I mentioned that my bureau handles
3 elder abuse. We are an aging population.
4 Thankfully we are the beneficiaries of wonderful
5 advances in medicine.

6 With an aging population we are
7 seeing more and more elder abuse cases in the
8 system. And oftentimes the abuse is being
9 committed by a family member which means it is
10 domestic violence. Getting some of our senior, 80
11 years old, 85 years old, to come to any place
12 called a district attorney's office as the first
13 resort is very difficult. We are blessed on
14 Staten Island with an agency called the Committee
15 Agency for Senior Citizens which is an advocacy
16 group and assists the seniors. But it's still
17 very hard to advance the protections.

18 So while I understand very much
19 your concerns Councilman, I think rather than
20 constraining the options for vulnerable
21 populations, what we need to do is recognize that
22 that may be the first step.

23 MS. GRADY: May I just add, as the
24 draftsman in this, and you can follow up,
25 currently criminal procedure law 530-11 allows for

2 concurrent jurisdiction for orders of protection
3 for all offenses that occur between members of the
4 same family or household. And there is a list of
5 offenses eligible. The portion of our bill that
6 includes domestic abuse, first and second degree,
7 in that list is merely to continue that policy
8 that's already in place and to make those
9 provisions also something that people could go to
10 get an order of protection in family court as
11 well.

12 COUNCIL MEMBER HALLORAN: I
13 understand that. I have been on both sides of
14 that war, to call it what it is. However the
15 difference is the granting of an order for
16 protection is a shield of the State. It provides
17 a shield to a victim. It does not act as a sword
18 for the prosecution. I cannot walk into family
19 court and charge you with a misdemeanor and send
20 you to jail. That's the difference between what
21 your act will enable and what exists currently,
22 right? You will give that court with--

23 MS. GRADY: [Interposing] No.

24 COUNCIL MEMBER HALLORAN: --

25 concurrent jurisdiction--

2 MS. GRADY: [Interposing] No,
3 that's what I wanted to clarify.

4 COUNCIL MEMBER HALLORAN: Okay.

5 MS. GRADY: All it does is simply
6 add our crime to the list of crimes currently in
7 the law that allows concurrent jurisdiction for
8 issuance of--

9 COUNCIL MEMBER HALLORAN:
10 [Interposing] Issuing orders of protection, okay.

11 MS. GRADY: --orders of protection.

12 COUNCIL MEMBER HALLORAN: Okay.

13 All right. And then one of the things you
14 mentioned in your direct testimony was on
15 harassment and police officers not exercising
16 their discretion to make violation arrests.
17 Technically they can make the arrest. I've been
18 in the NYPD too, so. Yes, you can arrest on a
19 violation without having witnessed it in your
20 presence. We're not encouraged to. The patrol
21 guide discourages it. You still have that
22 policing power.

23 What detectives do is they will
24 take a supporting deposition and get everything
25 filled out first in the first instance and then

2 go. Perhaps one of the things we need to do is
3 look at the patrol guide's directives on these
4 issues and perhaps, you know, obviously harassment
5 will still continue as a violation. There will
6 still be instances where even your legislation may
7 not qualify. A police officer is making a
8 judgment call every time they come up on a scene,
9 is this really a domestic situation, isn't it. I
10 mean these are the kind of snap things that happen
11 unfortunately in the field. Perhaps that's
12 another avenue that we can explore to work on it.

13 MS. RUDICH: May I just say--

14 COUNCIL MEMBER HALLORAN:

15 [Interposing] Sure.

16 MS. RUDICH: My reading of the
17 criminal procedure law 140.10--

18 COUNCIL MEMBER HALLORAN:

19 [Interposing] Mm-hmm.

20 MS. RUDICH: --differs from,
21 obviously yours.

22 COUNCIL MEMBER HALLORAN: Yeah.

23 MS. RUDICH: I read it as the
24 police are not permitted under the law to make
25 that arrest for a violation not committed in their

2 presence. But I agree with you that by enacting
3 these kinds of laws, we should be allowing that
4 kind of discretion because sometimes they do get
5 to the scene and it really calls for criminal
6 intervention.

7 COUNCIL MEMBER HALLORAN: And again
8 I think you're doing a heck of a job, the DA's
9 doing a heck of a job. I love the fact that
10 you're advocates on legislation which I think is
11 something that really has not been at the top of
12 many district attorney's lists. Of course I
13 salute Judge Brown who's done such a great job in
14 Queens as well. Thank you Madam Chair. I
15 appreciate it.

16 CHAIRPERSON FERRERAS: Thank you.
17 Thank you very much for coming to testify. I
18 believe our next witness is on her way up in the
19 elevator. But thank you so much for coming to
20 testify. You have added a great deal of
21 information for our--

22 MS. RUDICH: [Interposing] Thank
23 you so much.

24 CHAIRPERSON FERRERAS: --thank you
25 so much. We're going to be holding for about two

2 or three minutes for our next witness.

3 [Pause]

4 CHAIRPERSON FERRERAS: And we're
5 waiting for the Brooklyn DA's Office, Wanda
6 Lucibe--she's here? Oh. Come on up. I'm so
7 sorry. Someone just told me you were in the
8 building, not the back row.

9 [Off mic comments]

10 CHAIRPERSON FERRERAS: [Chuckling]
11 Thank you and welcome. Oh. If we could just make
12 sure she has a slip for the record.

13 [Pause]

14 CHAIRPERSON FERRERAS: State your
15 name and you may begin your testimony.

16 MS. WANDA LUCIBELLO: Okay. Good
17 morning everyone and thank you so much for
18 inviting me to be here today. I'm delighted. My
19 name is Wanda Lucibello and I'm Chief of Special
20 Victims Division in the Brooklyn District
21 Attorney's Office where I oversee the
22 prosecutorial functions as part of the Family
23 Justice Center in Brooklyn, as well as the Elder
24 Abuse Unit within the District Attorney's Office
25 and the Victim Services Unit. And I'm here

2 representing Kings County District Attorney
3 Charles Hynes. Good morning and thank you so much
4 for inviting me to address you here today.

5 I just want to begin by saying that
6 prosecuting acts of domestic violence and
7 protecting domestic violence victims from their
8 abusers has been one of DA Hynes' top priorities
9 during his 20-plus years as District Attorney of
10 Kings County. So just to give some framework and
11 context for the issues, specifically to Brooklyn,
12 with over 2.5 million people, Brooklyn has the
13 largest population of the 5 Boroughs of New York
14 City and about a third of New York City's women
15 reside in Brooklyn.

16 Brooklyn prosecutes the highest
17 number of domestic violence cases in New York
18 City, about 10,000 per year. And as many before
19 me have stated today the vast majority of those
20 cases are misdemeanor prosecutions. Since the
21 passage of New York State's strangulation bill
22 which has been an extremely, extremely effective
23 statute, to have, you know, in the prosecutorial
24 quiver of arrows, so to speak, since its passage
25 on November 11th of 2010 in Brooklyn we have filed

2 the highest number of strangulation filings under
3 the new law, accounting for approximately 25% of
4 New York State's strangulation filings since the
5 new law was passed which to me really shows how
6 extraordinary a new law, particularly the
7 misdemeanor component of that statute, how that
8 can so quickly be utilized by prosecutors.

9 We are very, very fortunately in
10 Brooklyn to have the first Family Justice Center
11 that was developed in the City of New York. And
12 we're committed to ensuring the safety of the
13 victim even if the victim is, as many of them are,
14 I would say roughly 75% of victims, are reticent
15 about going through with the prosecution,
16 especially with actually physically coming to
17 court to testify. As you can imagine that's an
18 extremely daunting proposition.

19 So the creation of the City's first
20 Family Justice Center in Brooklyn in 2005 has
21 meant that many, many, many victims are getting
22 support and service that they need. And roughly
23 60% to 65% of all of those coming to the Family
24 Justice Center in Brooklyn are coming because they
25 have been asked to come by virtue of an arrest and

2 a criminal prosecution beginning.

3 The Brooklyn Family Justice Center
4 has had over 41,000 clients who have visited the
5 center on at least 1 occasion. And over 87,000
6 total client visits and over 7,000 total visits by
7 children to the children's room called Margaret's
8 Place. About one-third of our domestic violence
9 victims are foreign-born. And that is also in
10 keeping roughly with the percentage of Family
11 Justice Center clients who are foreign-born. And
12 along with our wonderful immigration attorneys at
13 the Family Justice Center, we have filed
14 approximately 500 U-Visa certifications for
15 battered immigrants who qualify for these special
16 visas.

17 Also before I get to the substance
18 of the legislation, what has been incredibly,
19 incredibly helpful for victims is something called
20 EVE or the Early Victim Engagement Project which
21 has helped to ensure the safety of domestic
22 violence victims and has encouraged victims to
23 continue with the prosecution of offenders. It's
24 a joint project funded by the Department of
25 Justice's Office on Violence Against Women,

2 between our office, the Mayor's Office to Combat
3 Domestic Violence, also our partners, of course,
4 in the Family Justice Center, NYPD, Safe Horizon,
5 Safe Homes Project, the Department of Probation
6 and Parole.

7 And what happens is as many of you
8 know in New York State we have a very, very fast
9 turnaround from an arrest to an arraignment. It's
10 a 24-hour period of time. So what used to happen
11 is that at 1:00 o'clock in the morning, say, the
12 offender would be arraigned and an order of
13 protection might be issued. And the judge would
14 decide, for example, to release the defendant on
15 recognizance.

16 The victims during this stage in
17 the criminal justice system oftentimes are at
18 home, maybe visiting a hospital emergency room.
19 So what would happen is the offender would get a
20 copy of the order of protection. The judge might
21 release the offender. And the offender, many
22 times, might go right back to the home. And the
23 victim by virtue of not being in court at the time
24 that this proceeding was taking place oftentimes
25 the victim would be the last person to know really

2 what the provisions of the order of protection
3 were and what the conditions of bail were.

4 So, you know, not that the police
5 and prosecutors wouldn't foretell this event if
6 you would at the time that the filing was being
7 made in the case but the actual real time
8 information was something that wasn't necessarily
9 with consistency getting to the victim.

10 So what the Early Victim Engagement
11 Program has done is that teams of Safe Horizon and
12 Kings County DA's Office victim liaisons are
13 actually calling from the courtroom right after
14 the arraignment takes place and giving this
15 information in real time over the phone. And
16 where it's possible, either faxing or PDF'ing a
17 copy of the protective order directly to the
18 victim.

19 And what we have found is that this
20 enables the victim to have a much broader range of
21 being able to enforce a protective order by
22 knowing in real time that the order exists and
23 what the terms and conditions of the order are.
24 And we have actually had situations where
25 offenders who have had bail set and gone into the

2 rear of the courtroom into a holding pen and
3 actually from a cell phone made phone calls right
4 from behind where the judge sits on the bench in
5 violation of that no contact provision in the
6 order of protection and the victim has been able
7 with this new real time information actually call
8 the liaison back and we've had a defendant
9 remanded immediately based on that exchange of
10 real time information. So it's really an
11 incredible, incredible tool.

12 What it has done is that this early
13 engagement has brought in many, many more people
14 to the district attorney's office who might
15 previously have been fearful of coming into the
16 district attorney's office particularly immigrant
17 victims because Language Line is being used at
18 this very early stage. So for me this has been an
19 incredible, incredible tool for me as a prosecutor
20 because, you know, before we really talk about
21 different aspects of criminal justice and our
22 duties, tasks and responsibilities, be it as
23 judges, as prosecutors, as NYPD officers, what we
24 have to remember in all of this is criminal
25 justice in many ways presents itself as a somewhat

2 of a small toolbox in terms of assisting domestic
3 violence victims.

4 It is really criminal justice in
5 the company of all of the advocacy organizations
6 that we partner with in this project, in Early
7 Victim Engagement, in the Family Justice Center,
8 it's really that whole tapestry, if you will, of
9 support and service working together that really
10 strengthens each individual piece of it.

11 So EVE, the Early Victim Engagement
12 Project, has raised, actually raised the number of
13 people in my opinion who actually are willing to
14 come in to a district attorney's office, which, if
15 you will, whether that prosecution goes forward or
16 not ultimately, stepping into a place where you at
17 a very early point in time can get that kind of
18 help and support I think is one of the most
19 critical pieces of what we do. And a piece that I
20 get very, very concerned about when budgets are
21 cut and are, you know, looked at from the
22 perspective of, you know, what can we do without.
23 I mean these are essential, essential pieces for
24 me as a prosecutor, for us as a City, as a
25 community.

2 So as my very dear colleague
3 Yolanda Rudich before explained, oftentimes where
4 we are able, we are going to use other evidence to
5 prosecute these very, very difficult cases. So
6 when we say criminal justice, you know, doesn't
7 always work, I mean these cases also need the same
8 type of evidence as any other criminal prosecution
9 needs. So for example now where possible we're
10 using 911 calls. We are using calls from jail
11 which are extremely important, what offenders say
12 from behind bars can and is being utilized, I know
13 by the Queens District Attorney's Office, by all
14 of us really. It's very, very important.

15 And we've been very vigorous in
16 launching a statement gathering project with NYPD
17 where we are looking to have NYPD bring us
18 misdemeanor offenders and taking statements from
19 misdemeanor offenders in the presence of NYPD, by
20 an assistant district attorney with all Miranda
21 rights given so that we can prosecute domestic
22 violence cases without the victim's active
23 participation in the case. And all of that, you
24 know, is without specific legislation. It's not
25 necessary. It's not needed. It's all within the

2 criminal procedure law.

3 So I'd like to comment on the two
4 bills in the State legislature that are the
5 subject of these hearings. Bill 06113 requiring
6 orders of protection and temporary orders of
7 protection issued in family court and criminal
8 court to be translated by an interpreter into the
9 native language of the parties. We're very
10 fortunate luckily within New York City to have
11 ample access to court certified translators.

12 And I have not been in any court
13 part in Brooklyn other than sometimes there's a
14 delay in actually physically getting the
15 translator to the court part but I have not
16 witnessed a situation where we haven't had access
17 to certified interpreters. I will say that for
18 deaf and hard of hearing individuals that is a
19 particular challenge that I think would be helpful
20 to mention in this area. Although of course that
21 doesn't mean that the order of protection couldn't
22 be read by that offender. But we have found that
23 by having a deaf hard of hearing advocate in the
24 Family Justice Center we've tremendously increased
25 the numbers of people from that community who are

2 able to come in and prosecute cases.

3 So, you know, ultimately it is the
4 prosecutor's burden at a trial to prove beyond a
5 reasonable doubt that the defendant knowingly
6 committed an act of violating a protective order.
7 So oftentimes we are using transcripts, court
8 transcripts of the explanation that the judge gave
9 on the record that was in the presence of a court
10 interpreter. And I think that ultimately this
11 issue is probably one of greater significance and
12 importance outside the City of New York frankly.

13 The bill number Senate 3666,
14 Assembly 5890 and I'm going to include within this
15 Senate 1510, these bills would greatly strengthen
16 our current laws so that domestic abuser could be
17 effectively blocked from reengaging in violent
18 conduct. The domestic abuse in the second degree,
19 a Class A Misdemeanor would appropriately punish
20 offenders who clearly meaning to intimidate and
21 harass their victims have caused them physical
22 injury but who under current law may not be
23 chargeable with assault in the third degree.

24 Domestic abuse in the first degree
25 would raise to an E Felony a current assault in

2 the third degree when that assault is committed in
3 a domestic violence situation. This enhancement
4 rightly recognizes the special viciousness of
5 domestic abuse and that in the domestic violence
6 context what the law now characterizes as a
7 misdemeanor assault so often indicates recurring
8 and escalating violence.

9 Domestic abuse in the first degree,
10 this would be the new penal law section 120.85
11 provides a bump-up to a felony for repeat
12 misdemeanor offenders of the new domestic abuse
13 crimes. There should also be enhanced punishment
14 for domestic abusers who repeatedly commit any of
15 the entire spectrum of domestic violence
16 misdemeanor offenses such as stalking, aggravated
17 harassment, criminal mischief, etcetera, not just
18 abusers who have been specifically convicted of
19 domestic abuse in the first degree or second
20 degree.

21 So in summary we've made great
22 strides in recognizing the crimes of domestic
23 abuse and addressing their impact on families. We
24 must continue to find ways to provide victims with
25 as many choices and options as possible. Every

2 County in the City, it's been said here already,
3 should have a Family Justice Center. And when
4 victims are able to walk in and access counseling,
5 advocacy, meet with a prosecutor, meet with a
6 police officer, get career services assistance,
7 get housing, get immigration assistance, get civil
8 legal assistance, they will be able to get out of
9 dangerous relationships at a much, much earlier
10 point in time.

11 You know, it's pretty basic. If
12 you don't know what your options are and you don't
13 know what your choices are and you don't see a
14 clear path to getting those options and choices,
15 then you are going to stay in dangerous
16 relationships for a much longer period of time.
17 And the children will be observing abuse and
18 they'll be the recipients of abuse for a much
19 longer period of time. And we know that that will
20 make them less likely to reach their full
21 potential as members of our society.

22 So I think all of these proposals
23 come from a very good place. And that is the
24 prevention of this serial type of abuse, dangerous
25 terrorism in the home essentially, and blocking

2 vicious and escalating violence. So I'm happy to
3 take any questions. I'm sorry for my somewhat
4 late arrival.

5 CHAIRPERSON FERRERAS: I thank you
6 very much for taking the time out to testify. And
7 actually your testimony serves as a great wrap-up
8 because you've mentioned a lot of what the
9 advocates mentioned, what the other DAs mentioned
10 and you were able to kind of make everything wrap
11 up our hearing really. So I think that we concur.
12 So thank you very much for your support--

13 MS. LUCIBELLO: [Interposing]
14 You're welcome.

15 CHAIRPERSON FERRERAS: --and for
16 coming to testify.

17 MS. LUCIBELLO: Thank you.

18 CHAIRPERSON FERRERAS: And I will
19 call this hearing to an end.

20 [Gavel banging]

C E R T I F I C A T E

I, Laura L. Springate certify that the foregoing transcript is a true and accurate record of the proceedings. I further certify that I am not related to any of the parties to this action by blood or marriage, and that I am in no way interested in the outcome of this matter.

A handwritten signature in cursive script that reads "Laura L. Springate". The signature is written in black ink on a light-colored background.

Signature Laura L. Springate

Date June 26, 2011