

Expanded Access to Family Court in New York State:

A Report on the First Three Years of Implementation of Chapter 326

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Executive Director Amy Barasch, Esq.
New York State Office for the Prevention of Domestic Violence



Acting Commissioner Sean M. Byrne
New York State Division of Criminal Justice Services

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INTRODUCTION

In 2008, New York State's laws were amended to expand the jurisdiction of the Family Court for purposes of allowing a broader range of litigants to seek orders of protection. The law was an important change, finally, giving access to civil orders of protection to all domestic violence victims. The new law explicitly directed that the New York State Office for the Prevention of Domestic Violence (OPDV) ". . . in cooperation with and based upon data available to the state Division of Criminal Justice Services shall consider any effect upon police practices resulting from this act. . . and shall make a report to the legislature and the governor, within three years. . ." ¹ Given the importance of this legal change, the breadth of the effect that such a change would have throughout systems serving domestic violence victims, and the important public policy implications of the law, OPDV chose to exceed its narrow statutory mandate to examine police practices and draft a report that looks at various implications of the new law.

BACKGROUND

A. ORDERS OF PROTECTION PRIOR TO THE EXPANDED ACCESS LAW OF 2008

Issuance of Orders of Protection In New York State

In New York State, an order of protection is issued by a judge, and sets limits on an individual's behavior. Orders of protection are often issued in domestic violence cases, and their terms can include requiring an individual to leave and/or stay away from a victim's home; ordering the individual to stop abusing a victim or a victim's children or pets; and/or ordering the individual not to communicate with or contact a victim in any way.

¹ Chapter 326 of the Laws of 2008, <http://www.opdv.state.ny.us/law/expandedaccess/2008law.html>. (hereinafter referred to as Expanded Access).

In domestic violence cases, an order of protection can be issued in criminal and/or civil court. The civil venue for these proceedings in New York State is Family Court;² domestic violence victims must fall within the Family Court's personal jurisdiction, and then the allegations must fit within the "family offense" definition, described below, in order for the victim to request a civil order of protection.

Domestic Violence is Legally Defined by a Combination of Relationship and Behavior

New York State does not define "domestic violence" for criminal court and Family Court proceedings. Instead, New York State uses the term "family offense" to capture certain crimes³ when they are committed between "family or household members." Before the 2008 Expanded Access amendment, "family or household members" included persons:

- related by consanguinity (blood relatives) or affinity (through marriage);
- married or formerly married; or
- with a child in common.

Individuals who were married to, formerly married to, or had a child in common with the person who had abused them, were eligible to petition for an order of protection in both criminal court and Family Court. Those who fell outside of that definition could proceed in criminal court, but were not eligible for Family Court.

Limitations of New York's "Family Offense" Structure

Over the years, New York State's laws have provided increasing protections for those domestic violence victims who fell within the "family or household member" definition. However, those same protections did not extend to many other victims,

² A victim seeking a divorce, separation, or annulment, can also request an order of protection in another civil court, Supreme Court.

³ Family offenses/crimes: disorderly conduct, harassment in the first degree, harassment in the second degree, aggravated harassment in the second degree, sexual misconduct, forcible touching, sexual abuse in the third degree, sexual abuse in the second degree as set forth in subdivision one of section 130.60 of the penal law, stalking in the first degree, stalking in the second degree, stalking in the third degree, stalking in the fourth degree, criminal mischief, menacing in the second degree, menacing in the third degree, reckless endangerment, strangulation in the first degree, strangulation in the second degree, criminal obstruction of breathing or blood circulation, assault in the second degree, assault in the third degree or an attempted assault.

including dating or unmarried couples, same sex couples, and adolescent and many elder couples. Many people felt that the definition inappropriately excluded a large number of similarly situated victims from access to a critical civil remedy, and that the definition no longer reflected the nature of families and households today.

The 2008 Expanded Access Law

In 2008, New York State expanded its legal definition of “family or household member” to include, “...persons who are or have been in an intimate relationship regardless of whether such persons have lived together at any time.”⁴ For the purposes of this report, we will refer to these newly qualified individuals as “intimate partners.”⁵ This change in definition means that intimate partners now have the same legal rights and protections as victims who were already covered by the law. These benefits include the following:

- an intimate partner victim can seek an order of protection from Family Court in addition to, or instead of, pursuing criminal court options;
- the court must enter the order into the statewide Order of Protection and Warrants Registry, which police consult when called to enforce an order of protection;
- police officers must, when responding to a domestic violence complaint, complete a Domestic Incident Report (DIR), regardless of whether a crime is alleged or an arrest is made, and must provide the victim with a copy;
- police officers must make an arrest according to the mandatory arrest provisions for family offenses in the Criminal Procedure Law § 140.10(4); and
- police officers must determine which party is the primary physical aggressor when two parties both allege domestic violence misdemeanors.

⁴ The law enumerated factors the court may consider in determining whether a relationship is an “intimate relationship,” including, but not limited to: the nature or type of relationship, regardless of whether the relationship is sexual in nature; the frequency of interaction between the persons; and the duration of the relationship. The law also clarified that “Neither a casual acquaintance nor ordinary fraternization between two individuals in business or social contexts shall be deemed to constitute an ‘intimate relationship.’”

⁵ This is a definition of convenience for this report: ‘intimate partner’ is commonly used to refer to a broader category of individuals that includes married and formerly married and those with a child in common.

This change impacted other legal areas that reference the family or household definition as well, such as:

- enhanced criminal contempt charges that apply only to violations of family offense orders of protection;
- alternative voting options that maintain the confidentiality of the victim's address; and
- protections against workplace discrimination based on an individual's status as a domestic violence victim.

Since most enhanced provisions in domestic violence-related laws reference the family or household definition, future laws will likely utilize this more inclusive definition of victim of domestic violence. For example, during the 2011 legislative session, the Social Services definition of 'victim of domestic violence' was amended to include the new category of 'intimate partner.'⁶ Social Services laws and regulations had already included unrelated individuals living in the same household or having regular access to one another's household, but adding the intimate partner category created a more comprehensive definition, so that all individuals who are eligible for a civil order of protection have corresponding eligibility for residential and non-residential domestic violence services.

B. HISTORY OF THE ISSUE

Intimate Partners Need Access to Civil Orders of Protection

As discussed above, in New York, domestic violence victims can access orders of protection through the Family Court system and/or the criminal court system. The processes differ considerably.

- In Family Court, the victim is the petitioner. S/he can choose to go to court at any time, and no arrest is required. The goal of the proceeding is the issuance of an order of protection, and the victim can seek custody and/or child support as well. Orders can be issued on consent of the respondent, resulting in fairly rapid disposition. The victim is present for every court appearance.

⁶ Chapter 11 of the Laws of 2011.

- In criminal court, the state brings the case, represented by the local district attorney's office, and cases are typically initiated through arrest. The victim in this case is a witness. The goal of the proceeding is the punishment of the defendant. The order of protection is only one aspect of the case, and may or may not be issued for the victim. Matters of custody and child support cannot be heard. Incarceration may be sought, depending upon the charges and the evidence. Victims are not required to be present in court at all, unless they are called to testify.

Intimate partner victims of domestic violence have always been eligible for an order of protection in criminal court if they chose to call the police, but those same victims were not eligible for a civil order of protection. Victims in intimate partner relationships have most of the same experiences and the same emotional, social, psychological and economic concerns as victims who are married or share a child in common with their partner.

Historically, many have held that as a matter of safety, intimate partner victims should also have access to civil options, in addition to a criminal remedy. Many victims choose to pursue civil remedies because they do not want to involve the criminal justice system, or because they want to ensure that other family matters involving children are addressed. For emotional or economic reasons, they may not want their abuser incarcerated. For foreign-born individuals, fear of deportation can inhibit their use of the police. In addition, domestic violence usually happens in the confines of the home, frequently with the victim as the only witness, and, at times, without any other corroborating evidence. This dynamic makes some domestic violence cases difficult to prove under the high criminal court standard, beyond a reasonable doubt. The Family Court standard of proof is lower – preponderance of the evidence – making it easier for victims to obtain an order of protection. Thus, if a prosecutor is unable to proceed with a criminal case, some victims can still obtain an order of protection in Family Court. Denying intimate partners' access to Family Court has resulted in some victims having no access to an order of protection at all.

There are good public policy reasons to make civil orders of protection accessible to all victims of domestic violence. Civil orders of protection serve a preventive function, and reduce escalation and recidivism in many situations. Victims who obtain civil orders of protection may be more likely to take other safety-seeking measures. Civil orders of protection are issued relatively quickly,

and so, are a cost-effective-way to achieve safety for many.⁷ Since it is the state's goal to reduce violent crime, encouraging the use of a remedy that is preventive makes good sense.

Police Recognition of the Need for a Broader Definition of "Victim"

As first responders to domestic violence incidents, law enforcement officers witnessed firsthand the reality that many domestic violence victims fell outside of the state's legal definition. To address this dilemma, many police departments had already promulgated some version of an expanded definition in their internal domestic violence policies before the Expanded Access law was enacted in 2008. A series of research reports, mandated as part of the evaluation of the mandatory arrest provisions of the Family Protection and Domestic Violence Intervention Act of 1994 ("the Act"), documented an increasing number of police departments with more comprehensive definitions in their policies, noting that by 2000, 67% of NYS police agencies used some form of expanded definition.⁸ The New York City Police Department policy has covered individuals who live together, or have lived together, for decades. This policy was applied equally to opposite-sex and same-sex couples. The final report under the Act noted that the narrow definition then in effect in New York State raised legitimate equal protection concerns by excluding victims who were not legally married or did not share a child in common with the abuser, and called for a common sense definition of "domestic violence victim."⁹

Recommendations of The Commission on Domestic Violence Fatalities

In 1996, Governor George E. Pataki appointed a Commission on Domestic Violence Fatalities to "investigate select domestic violence fatalities to determine whether the deaths were associated with any deficiencies in the social service system, law enforcement, the courts, or any other public or private entity."¹⁰ The Commission was asked to recommend strategies to prevent domestic violence,

⁷ Logan, T.K. et al (2009) The Kentucky Civil Protective Order Study: A Rural and Urban Multiple Perspective Study of Protective Order Violation Consequences, Responses, and Costs. 228350. US Department of Justice, National Institute of Justice.

⁸ "Family Protection and Domestic Violence Intervention Act of 1994: Evaluation of the Mandatory Arrest Provisions," series of interim reports and Final Report to the Governor and Legislature.

⁹ "Family Protection and Domestic Violence Intervention Act of 1994: Evaluation of the Mandatory Arrest Provisions, Final Report to the Governor and Legislature," January 2001.

¹⁰ Executive Order 46

protect victims and improve services to victims and their families, and to suggest guidelines and legislation to reduce domestic violence. The Commission's 1997 report revealed that of the 57 victim homicides reviewed, 18 (33%) of the victims did not fit the state's definition of family or household member. The Commission recommended amending the "...current statutory definition of family or household to include co-habiting, same-sex and dating couples." Subsequently, Governor Pataki's Domestic Violence Omnibus Act of 1999 proposed adding "persons residing together continually or at regular intervals currently or in the past" to the family/household member definition. Though the bill had several sponsors from 1999 through 2006, it never passed in the Senate.

Different Definitions Caused Conflicts Within New York State Laws

The limited definition of family or household also created internal inconsistencies for the human services community. Because the Social Services Law definition of 'victim'¹¹ was broader than the Family Court definition, intimate partner victims could access services, such as crisis assistance, shelter, advocacy, support groups, etc., but could not get civil orders of protection. Because some governmental agencies require individuals to have orders of protection in order to qualify for specialized domestic violence services, intimate partner victims felt forced to seriously consider using criminal court, and were denied access to services if the criminal case did not proceed. In addition, the Social Services Law definition had been adopted in other sections of law, creating further conflicts. OPDV's 1998 Model Domestic Violence Policy for Counties noted the far-reaching effects of different statutory definitions, suggesting "...since the lack of a unified definition of domestic violence in communities is often an obstacle to coordinated responses, adoption of a unified, inclusive definition is an important step in strengthening a community's response to domestic violence."

¹¹ Prior to 2011, SSL §459-a: additional categories of victim of domestic violence include "...unrelated persons who are continually or at regular intervals living in the same household or who have in the past continually or at regular intervals lived in the same household" and "...any other category of individuals deemed to be a victim of domestic violence as defined by the Office of Children and Family Services in regulation"

C. HISTORY OF THE BILL

Legislative Action

The first proposal, introduced over twenty years ago in 1988 by Assemblywoman Helene E. Weinstein, amended the definition of family or household member to include individuals who were currently or previously living together. The bill, which underwent several revisions over the years, passed in the Assembly for 17 consecutive years. A Senate version was introduced annually from 2001 to 2006, but never passed. In later years, the bill was expanded beyond “living together,” to include individuals who were in an intimate relationship. When the final version of the bill passed both houses in 2008, New York State became the last state in the country to offer civil protections to the currently or formerly living together relationship category of domestic violence victims. At that time, 35 other states also covered dating relationships, including same sex relationships.

Support for the Legislation

Many arguments were advanced over the years to make the case for passage, including the safety that would be afforded intimate partner victims by allowing them access to Family Court for a civil order of protection. In addition to domestic violence service providers and advocates stressing the need for expanding access, members of the Lesbian, Gay, Bisexual, and Transgender (LGBT) community, who were legally unable to marry at the time, advocated for legislative change to address their inability to obtain the valuable protections of a civil order of protection. When the bill was first introduced, the discussion focused on the definition of “family,” which made it challenging for some legislators to support and distracted from the real safety concerns being addressed. For all victims who had been excluded, the additional protections that would accompany this change were seen as critical and essential safety tools to which all domestic violence victims should have equal access.

Other Constituencies and Victims Impacted

Advocates for senior citizens and teens also became supporters of the legislation. Many seniors who are in relationships after their spouses have died choose not to remarry, in order to protect their pensions and preserve their children’s inheritance, or for other personal reasons. These seniors were left

unprotected by the limited definition should they experience violence in their relationship. Advocates for teens saw the civil order of protection remedy as a possible aid to their clients, who are often reluctant to disclose the abuse at all despite its statistical prevalence among young people.¹² Teens are very unlikely to contact the police or use the criminal justice system for protection. Access to Family Court without required parental involvement was expected to be an acceptable avenue for many teen victims. Without this option, service providers working with teens had limited safety tools to offer their clients.

Significant Shifts in the 2007-08 Legislative Session

In 2007, Senator George Winner took on Senate sponsorship of Assemblywoman Weinstein's bill. In late 2007, the New York Statewide Coalition for Fair Access to Family Court was created to push in a collaborative and organized fashion for passage of an expanded access bill. Over 190 individuals and organizations were part of the Coalition. Supporters of the legislation framed the issue as a need for fair access to Family Court and civil orders of protection. Some of the organizations that joined the coalition were state-wide and New York City-based coalitions and legal organizations, service providers from the LGBT community, domestic violence service providers, legal advocates, and pro-bono attorneys.

Bill is Signed into Law

In June 2008 the bill passed both houses and was signed into law. It went into effect on July 21, 2008.

¹² One in three teenagers in a serious relationship reported that they've been concerned about being hurt physically by a boyfriend or girlfriend. One out of five of these teens say they have actually been hit, slapped, or pushed by a boyfriend or girlfriend. (Liz Claiborne Inc. study on teen dating abuse conducted by Teenage Research Unlimited, February 2005.)

D. CONCERNS AND QUESTIONS ABOUT THE NEW LAW

Over the years that the bill was being discussed and amended, several issues were raised by those concerned about it becoming law.

Definition of “Family”

A primary question, with legal, social and political implications, centered on who should be considered a family or household member. The decision about who would qualify as a family arose solely because of the structure of the New York State courts, which do not provide a civil court remedy other than Family Court¹³. Providing a broader group of people with access to a civil court remedy appeared to some to pose a challenge to traditional notions of family, which made the conversation more complicated than it might otherwise have been. Though Family Court is the primary non-criminal option for domestic violence victims to obtain orders of protection in New York, some maintained that changing the definition of eligibility challenged the original intent of the Family Court Act. Some people questioned whether unmarried individuals who were living together or in an intimate or dating relationship should constitute a family or household. There was also opposition to same-sex couples being considered a family or household.

Potential Impact on Family Courts

A second significant area of concern was the potential impact on the Family Court system. Some argued that the system was already overburdened with increasing responsibilities and caseloads. Legislation to increase the number of Family Court judges to handle the increasing caseloads had been pending for years but had not passed. Legislation to increase judicial salaries had also failed to pass. Some feared that the number of petitions for orders of protection would skyrocket, crushing an already overburdened system. To address these concerns, attempts were made to estimate projected use, taking into consideration how many intimate partners who received criminal court orders might choose Family Court instead of, or in addition to criminal court, estimating how many court appearances would be required per case, etc. Surprisingly, no other state that had gone through a similar legal change had tracked the volume

¹³ Except for the limited access to Supreme Court when a victim is seeking a divorce, separation, or annulment.

of court cases attributable to the change. Although it proved impossible to predict the increase with any level of certainty, there was universal acknowledgement that allowing more individuals to obtain orders of protection in Family Court would lead to increased caseloads and have an impact on Family Court at several levels.

Potential Impact on Law Enforcement

Implementation concerns were also raised by the law enforcement community, including the challenge of identifying less clear-cut relationships, especially when they might require a mandatory arrest. Some law enforcement agencies expressed concern that lack of clarity about what constituted an intimate relationship could lead to protections that were intended to be afforded to intimate partners being applied to roommates, subtenants, friends, etc. Others, however, saw the expanded language as relieving police officers of the need to determine the precise legal nature of the relationship at the time of an incident.

Some feared that there would be an increased demand on law enforcement, due to the requirement to complete more DIRs, increased officer time to investigate primary physical aggressor, more mandatory arrests, more serving of Family Court orders of protection,¹⁴ and, presumably, more arrests for violations of orders of protection, given the expected increase in issuance of orders. Although some level of increased workload was clearly likely, it was also noted that some of these cases were already being seen by police, but were just not being classified as domestic violence cases. In addition, the new law would give officers another resource – a Family Court order of protection – to share with victims who did not want to go to criminal court. Since orders of protection are often effective at reducing future crime, an increased number of orders might result in a decrease in the number of future domestic violence crimes to which the police would need to respond.

¹⁴ Pursuant to F.C.A § 153-b (b) and (c), police are required to serve Family Court orders of protection.

EXAMINING THE IMPACT OF THE EXPANDED ACCESS LAW

In attempting to analyze the impact of the Expanded Access law, OPDV looked at data and anecdotal information in four primary stakeholder communities:

- Law enforcement
- Courts (including Family Courts, criminal courts, Domestic Violence (DV) Courts, and Integrated Domestic Violence (IDV) Courts)
- Victim service providers
- Victims of intimate partner violence

OPDV Webinars

OPDV sponsored a series of webinars to provide information on the law and to gather anecdotal feedback from advocates, legal services providers and others from across the state on how implementation was progressing.

In March and April of 2010, OPDV conducted two webinars, with presentations by the NYS Coalition Against Domestic Violence (NYSCADV) and the Empire Justice Center that provided an overview of the law, discussed the benefits and attempted to ascertain what challenges were being seen by domestic violence service providers and civil legal services attorneys.¹⁵ Feedback was mixed, with a general sense that communities were still sorting out implementation. Concerns included:

- A lack of public awareness of the law.
- The absence of training.
- Limited resources.
- Clarification of who qualifies as an intimate partner for law enforcement, court clerks and service providers.

¹⁵ PowerPoints and articles distributed at the webinars can be accessed at <http://www/internet/opdv/law/expandedaccess/resources.html#webinars>.

- Clarification of the rights of minors.
- Problems with mutual orders of protection.
- Problems with application of the primary physical aggressor law.
- Expanded access on college campuses.

During a third webinar, conducted in December 2010, NYSCADV provided a formal training on the law, describing its requirements, the responsibilities of the different service systems, and court determinations to date regarding who qualified as an intimate partner.¹⁶ Participants in this webinar indicated that implementation was generally proceeding well, though two remaining problem areas were cited by a significant minority of respondents. Respondents were concerned about mandatory arrest and primary physical aggressor enforcement by police, and petitioners possibly being turned away by court clerks or probation intake interviewers.

Information gathered through the webinars, while valuable, was limited by both the number of individuals who were able to participate and the limited time available to present information and conduct a discussion. Therefore, it was difficult to know how widespread the concerns were. For the purposes of this report, OPDV chose to conduct follow-up surveys, rather than proceed with any additional webinars. The results of the surveys are reported in the sections on law enforcement and domestic violence service providers.

A. DATA SUMMARY

After Expanded Access took effect on July 21, 2008, OPDV anticipated that, as is the case with most laws, actual changes in procedures and system use would not occur immediately. Due to the law's mid-year passage and the learning curve that occurs with most new laws, OPDV expected that more consistent effects of the law would begin to appear in 2009 data. In order to identify changes that could fairly be attributed to the new law, OPDV focused on a five year period, 2.5 years prior to the law's enactment, and 2.5 years after, both to get a fair point of

¹⁶ NYSCADV prepared a Question & Answer resource to address many of the questions that arose during the webinars including questions on Probation procedures answered by a panelist from the NYS Office of Probation and Correctional Alternatives. The Q & A is available on OPDV's website:

<http://www.opdv.state.ny.us/law/expandedaccess/qasummary.html>

comparison, and to allow time for the various systems impacted to fully integrate the change.

This report is based on information from multiple sources, including:

- Data from the New York State Division of Criminal Justice Services (DCJS)¹⁷ and the New York State Office of Court Administration (OCA);¹⁸
- Informal surveys of police chiefs and sheriffs,¹⁹ and domestic violence service providers and specifically LGBT service providers;²⁰ and
- Feedback from the Office of Probation and Correctional Alternatives (OPCA), the New York State Department of Corrections and Community

¹⁷ Division of Criminal Justice Services (DCJS): Uniform Crime Reports (2006 – 2010) for counties outside New York City. For more information on UCR reporting of domestic violence crimes, see http://www.criminaljustice.state.ny.us/crimnet/ojsa/crimereporting/ucr_refman/dv_reporting_requirements.pdf and

http://www.criminaljustice.state.ny.us/crimnet/ojsa/crimereporting/ucr_refman/dv_report_detail.pdf.

¹⁸ Office of Court Administration (OCA) Uniform Case Management System (UCMS): annual data on Family Offense order of protection petitions filed between January 1, 2006 and December 31, 2010, in New York City, outside NYC, and statewide.

¹⁹ Questionnaires were distributed via SurveyMonkey to members of the NYS Association of Chiefs of Police and the NYS Sheriffs' Association, asking about individual agencies' experiences with the implementation of Expanded Access. Of the 550 police chiefs who received surveys, 43 (8%) responded. Of the 62 sheriffs who received surveys, 29 (47%) responded. Police chiefs responding were mainly from urban and suburban areas, while sheriffs were from rural, suburban, and mixed areas. Police chiefs were mostly from central and western areas of the state and the New York City metro area, while sheriffs responding were mostly from central and western New York. The two groups received identical surveys, which asked about challenges departments had faced in implementing Expanded Access, benefits they saw in the law, training received and current training needs.

²⁰ Questionnaires were distributed via SurveyMonkey to all licensed domestic violence service providers in the state, and to members of the NYS Lesbian, Gay, Transgender and Bisexual (LGBT) Domestic Violence Network, asking about their experiences with the implementation of Expanded Access. Of the 94 domestic violence agencies that received surveys, 23 (24%) responded. Of the 80 members of the LGBT DV Network who received surveys, 26 (33%) responded; most (81%) worked in a domestic violence agency; the remainder, with one exception, worked for an LGBT service agency. Respondents represented a mix of urban, suburban and rural areas, and came from every part of the state. Both groups were asked about: challenges agencies had faced in implementing Expanded Access, benefits they saw arising from Expanded Access, training they had received, current training needs in their agency, and training and informational materials they had provided to their community. Domestic violence service providers were asked about demand for services, and about their clients' experiences with law enforcement and the courts. The survey of LGBT service providers focused specifically about the impact of Expanded Access on people in same-sex relationships.

Supervision (DOCCS/Parole) and the New York City Police Department (NYPD).²¹

All percentages in the text of this report are rounded to the nearest whole percent.

B. IMPACT ON LAW ENFORCEMENT

Criminal Offense Data and the Impact on Law Enforcement

Data that provides a definitive and comprehensive picture of the direct impact of Expanded Access on law enforcement is not available through existing State data sources. However, limited information that helps us assess the law's impact can be found in the DCJS Uniform Crime Reporting system (UCR).²²

In addition to reporting their crime statistics, law enforcement agencies that participate in the UCR program also submit summary counts of domestic violence victimizations reported to police.²³ This data on domestic violence victims is reported when it is determined that a crime has been committed, regardless of whether or not an arrest was made.

These summary counts involve a select number of offense types and domestic relationships.²⁴ Offense types reported for domestic violence victims submitted through the UCR system include:

- Simple assaults (including aggravated harassment, as of 2009);
- Aggravated assaults;
- Sex offenses;

²¹ Domestic Incident Reports (DIRs) constitute another important source of information on the impact of Expanded Access on police services. However, for the five-year period on which this report is based, DIR data from state and local police departments are unavailable in a format that permits statistical analysis, and while New York City has a DIR database, technical difficulties made it impractical to utilize this data at the time of the writing of this report.

²² New York State law enforcement departments submit crime reports to DCJS through the Uniform Crime Reporting program; DCJS compiles and submits this data to the Federal Bureau of Investigation (FBI).

²³ Domestic violence victim data collected from law enforcement agencies can be accessed at <http://www.criminaljustice.state.ny.us/crimnet/ojsa/domesticviolence/>. This data is not provided to the FBI.

²⁴ An overview of the major limitations with UCR data may be found in Appendix 1.

- Order of protection violations; and
- Other violent felony offenses (revised in 2008 to include only murder, kidnapping, coercion and endangering the welfare of a child.)

UCR domestic violence victim data is reported for the following relationships:

- Wife by husband (including ex-wife by husband);²⁵
- Husband by wife (including ex-husband by wife);²⁶
- Intimate partner–female victim (including common law wife, girlfriend, and female same sex partner);²⁷
- Intimate partner–male victim (including common law husband, boyfriend and male same sex partner);²⁸
- Family members (parent, child, sibling, grandparent, in-law, other relative).²⁹

These victim/offender relationships mirror those legally considered “family and household members” with the exception of the child-in-common category.³⁰

Increases in Aggravated Assault and Simple Assaults Classified as Domestic Violence, Outside New York City

We reviewed the most recent five-year trend in domestic violence victimizations involving aggravated and simple assaults that were reported by law enforcement agencies outside of New York City.

In examining this trend, however, it is important to keep in mind that a substantial amount of the increase seen in the number of victims after the law went into effect is necessarily the result of changes, due to Expanded Access, in *who* is counted as a domestic violence victim, and in *which* relationship category. Assault victimizations considered non-domestic prior to the law’s enactment in

²⁵ In May 2008, ex-spouses were added to the spousal category.

²⁶ In May 2008, ex-spouses were added to the spousal category.

²⁷ In May 2008 girlfriend/boyfriend and same sex were added to this category.

²⁸ In May 2008 girlfriend/boyfriend and same sex were added to this category.

²⁹ This group was not measured as part of this analysis.

³⁰ NYS Division of Criminal Justice Services, Domestic Violence Victim Data: UCR Reporting Requirements, http://criminaljustice.state.ny.us/crimnet/ojsa/crimereporting/ucr_refman/dv_reporting_requirements.pdf

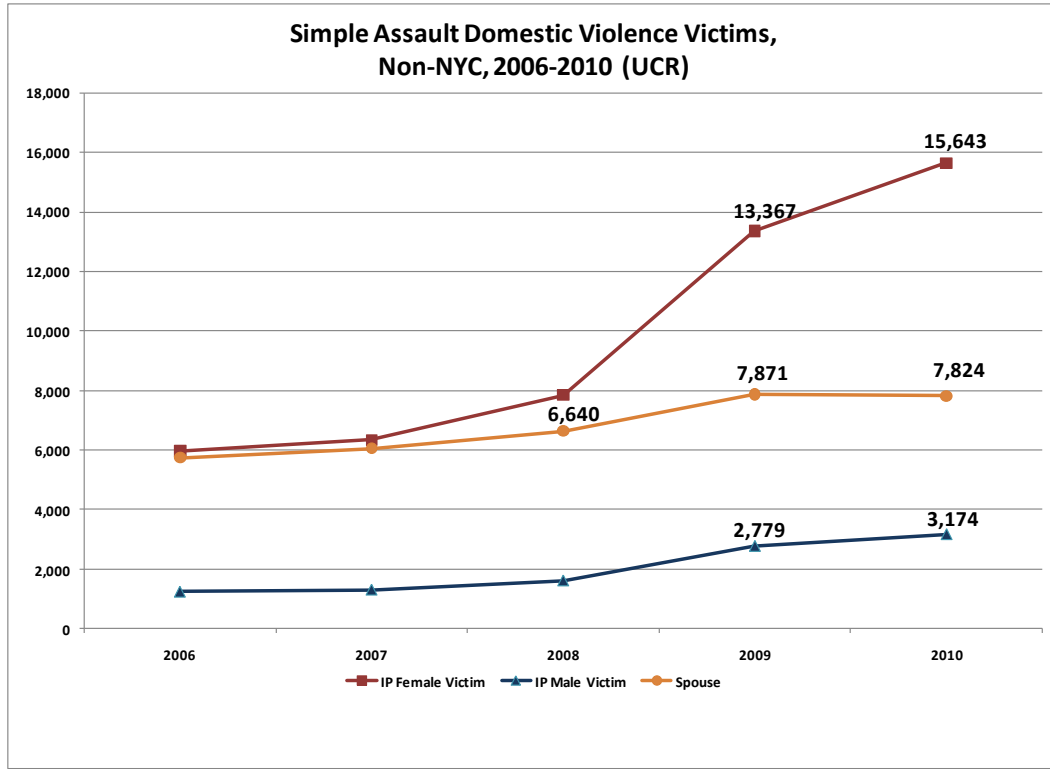
2008 – boyfriend/girlfriend, for example – were only counted as domestic violence victimizations after the new law came into effect. However, even before the law went into effect many victims in the new Expanded Access categories were already reporting these crimes to police, and perhaps receiving some police services, too.

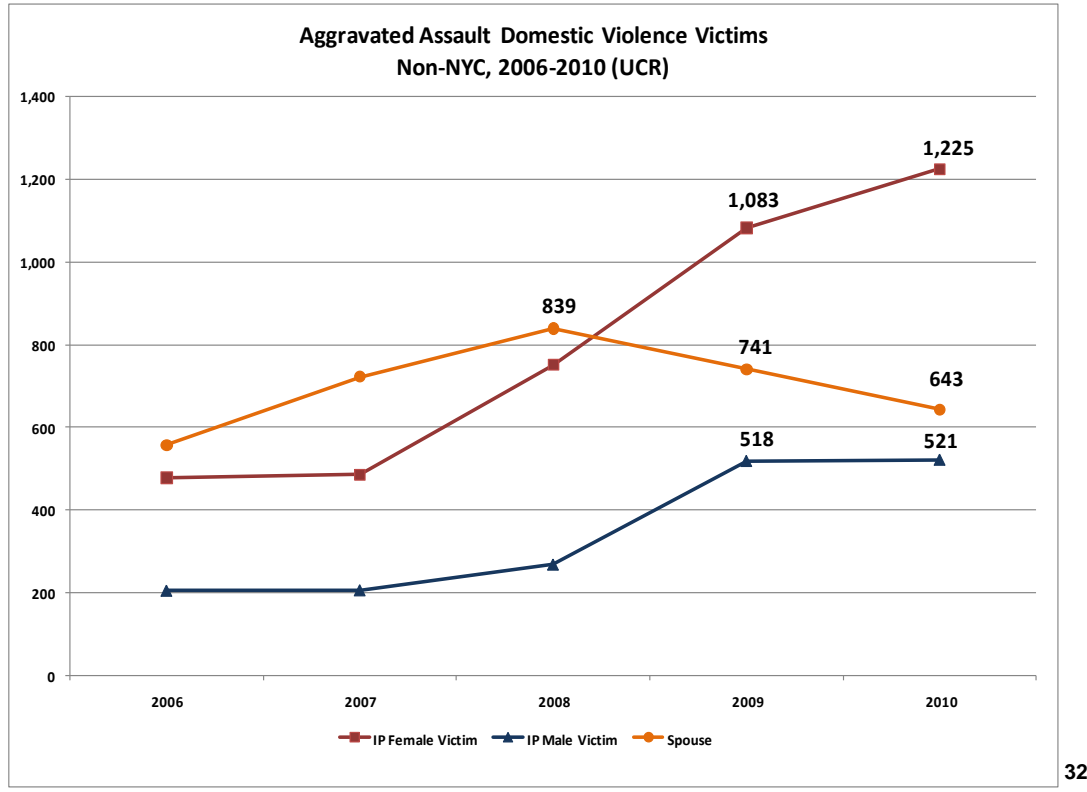
For the above reasons, many of the trends shown in the following charts reflect the effect of Expanded Access on the reporting of domestic violence to the UCR, rather than an actual increase in victimizations involving simple and aggravated assault.

The charts below depict the trends in simple and aggravated assault victimizations for intimate partner females, intimate partner males, and spouses in counties outside New York City, reported to UCR from 2006-2010. Prior to 2008, intimate partner male and female victims of either form of assault were not counted as domestic violence victims in the UCR. However, as a result of Expanded Access, these intimate partner categories were incorporated into UCR domestic violence victim counts for 2009 and 2010.

As the charts show, these categories drive increases in these years for intimate partner female (red line) and intimate partner male (blue line) victims.³¹ For example, there is a 136% increase from 2008 to 2010 in intimate partner female simple assault victimizations, which clearly reflects, at least in part, the change in the law. By comparison, after the establishment of Expanded Access, domestic violence victimizations of spouses involving simple assault (yellow line) rose only slightly and aggravated assault actually declined relative to 2008 levels.

³¹ In addition, simple assault DV victim counts for 2009 and 2010 cannot be directly compared to prior years, because aggravated harassment in the second degree (PL 240.30) — a high volume offense — was classified as a simple assault in the UCR in 2009.





These charts show an increase in intimate partner female and intimate partner male victims of both aggravated and simple assaults, due to some combination of the following factors:

- the implementation of the Expanded Access Law in 2008, which included intimate partner domestic violence victims under mandatory arrest provisions for reporting purposes;
- the 2009 change in the UCR crime classification of aggravated harassment in the second degree (PL 240.30) to simple assault, which means that victim-based data on simple assault for 2009 and 2010 cannot be compared to prior years; and
- the fact that law enforcement agencies did not all change their reporting practices at the same time.

³² See Appendix 2 for Misdemeanor and Felony Assault Domestic Violence Victim charts provided by the New York City Police Department. In 2009, the New York City Police Department began submitting annual data to DCJS on domestic violence victims in NYS Penal Law format, disaggregated by NYC counties.

Changes in reported victims over time may be due to any of these changes, so they should not be taken as a measure of the actual prevalence or actual increases in workload for police departments.

The following table shows the percentage increase in several domestic violence crimes – aggravated assault, simple assault, sex offenses, and violation of an order of protection – from 2007 through 2010, broken down by the nature of the relationship.³³

Percent Change, 2007 - 2010	Victim Offender Relationship							Total
	Wife by Husband	Husband by Wife	Child by Parent	Parent by Child	Other Family	IP Fem Victim	IP Male Victim	
Aggravated Assault	-18.7%	15.4%	36.9%	39.9%	-20.2%	151.9%	152.9%	30.9%
Simple Assault	26.5%	39.1%	53.7%	47.3%	56.8%	146.7%	370.6%	89.1%
Sex Offense	10.0%	-25.0%	-10.0%	114.3%	0.2%	39.6%	100.0%	11.5%
Violated Protective Order	-28.0%	-47.5%	-31.7%	-69.9%	-43.6%	205.0%	291.4%	-7.9%
Total	9.7%	18.6%	36.1%	28.5%	24.2%	149.6%	148.4%	56.4%

Local Implementation: Sheriffs’ and Chiefs’ of Police Responses to Implementation of the Law

Informal surveys, previously described, provided information about how police and sheriff’s departments were challenged by both additional demands on officers’ time – due to increased numbers of DIRs, primary physical aggressor determinations, service of family court orders of protection, and mandatory arrests – and the cost of training officers on the new law.

When Expanded Access first took effect, officers needed clarification on:

- who was included in the definition of ‘intimate partner;’
- whether people in same-sex relationships, teens or those in so-called “triangle” relationships (new girlfriends vs. former girlfriends, for example) were eligible for Family Court orders of protection; and
- whether mandatory arrest, primary physical aggressor, and DIR’s applied to these groups.

³³ See Appendix 3 for entire set of tables.

Some in law enforcement reported that internal directives and roll call trainings were the most frequent mechanisms used to inform officers of the change in the law. Sheriffs indicated that they also made use of a DCJS e-Justice Alert.³⁴ Fewer than one-quarter of officers received any additional training.

While the majority of chiefs and sheriffs reported that they had no current training needs in relation to Expanded Access, a significant minority indicated that they still needed some clarification on application of the law. Clearly some departments still experience a need for more information and training on the issue. This is consistent with reports from domestic violence and LGBT service providers, some of whom indicated that they thought police in their communities needed additional training, particularly with regard to how intimate partners are defined, and how Expanded Access applies to same-sex partners and adolescents. New training efforts will benefit from the fact that several courts have further interpreted “intimate relationship,” providing more clarity on which relationships qualify and which do not.

There appeared to be considerable consensus among law enforcement officers and service providers that issues regarding adolescents’ access to Family Court orders of protection, such as whether adult involvement should be required, or whether mandatory arrest, primary aggressor determination, and DIR’s apply to adolescents, still need clarification.

Local Implementation: New York City Police Department

The New York City Police Department (NYPD) instituted several changes in order to implement the expanded access law. The NYPD revised its Complaint Report Form and the NYPD Patrol Guide procedures with regard to domestic violence. They also upgraded their Online Computer Omniform System and Online Computer Domestic Incident Report System. While specific cost estimates are not available, personnel from multiple NYPD units and several vendors were involved in completing these changes.

Training was provided at roll calls, and additional training was conducted specifically with Training Sergeants, who then provided training to all uniformed members throughout New York City. A memorandum was also sent to all

³⁴ An e-Justice Alert is an electronic bulletin that is sent to all law enforcement in NYS.

uniformed officers explaining the law's new expanded definition of family or household member.³⁵

Statewide Implementation: NYS Division of Criminal Justice Services

The Division of Criminal Justice Services (DCJS) is a multi-function criminal justice support agency with a variety of responsibilities, including collection and analysis of statewide crime data and support of criminal justice-related agencies across the state. In response to the 2008 law, DCJS revised domestic violence reporting procedures for the UCR, described above, to improve the quality of data so as to better inform policy decisions in this area. Major changes included:

- Expanding the definition of "Domestic Relationship-Living Status." Consistent with the Family Court definition in place as of July 2008, "domestic relationship" was expanded to include all persons who are currently, or were previously, involved in a significant intimate or dating relationship, regardless of whether or not they ever lived together.
- Expanding the definition of "Domestic Relationship-Spouses/Intimate Partners." The definition of "victim" in the spousal category was expanded to include both current and former spouses, and the intimate partner category was expanded to include common law spouses, and boyfriends/girlfriends, explicitly including same-sex partners.

In other implementation efforts,

- DCJS developed an on-line training module outlining these new reporting requirements.
- DCJS published a briefing document outlining the implemented reporting changes and their effect on future reporting.³⁶
- The DCJS Office of Public Safety, responsible for the administrative oversight of mandated law enforcement training in New York State, worked with OPDV staff to update the basic course for police officer training and all other trainings that have a domestic violence component, to include the new statute.

³⁵ See Appendix 4: NYPD Domestic Violence Unit Training Bulletin #11 Intimate Partners.

³⁶ [Improving Domestic Violence Data in New York State: An Explanation of 2008 Reporting Changes.](#)

- The comprehensive Municipal Police Training Council's *Model Domestic Incident Policy for Law Enforcement* was also updated during a revision and review process over the last year.

Statewide Implementation: Office of Probation and Correctional Alternatives, DCJS

The Office of Probation and Correctional Alternatives (OPCA) works to create a new vision for community corrections that identifies and emphasizes best practices while ensuring that community corrections professionals have the tools to implement new and more effective standards that continue New York's commitment to public safety. In response to the 2008 law:

- OPCA updated and re-released its *Intake Guidelines – Completing Petitions for Orders of Protection Involving Family Offenses* in October 2008, to reflect the change in definition,³⁷ and sent a notice and new Office of Court Administration forms to all probation domestic violence liaisons (PDVLs). OPCA regularly included summary information about Expanded Access in resource packages for trainings and presentations on the issue of domestic violence.
- OPCA notified all directors and PDVLs about the statewide webinar that OPDV held on April 28, 2010 on the new law.
- OPCA partnered with OPDV on a 12/14/10 Live Meeting Webinar on Expanded Access, including partnering as a panelist. The program was attended by several probation staff from local departments across NYS and Intake Guidelines were distributed to all program participants.

Since 2009, Domestic Incident Reports (DIRs) completed by police officers on individuals known to be on probation have been required to be provided to the local probation departments so that the information contained in the DIR can be integrated into the agency's supervisory goals. Probation departments expect to be impacted due to the increase in DIR reporting.

³⁷ In some communities, probation officers draft order of protection petitions for litigants in Family Court instead of court clerks.

Statewide Implementation: Department of Corrections and Community Supervision/Parole³⁸

The Expanded Access law did not affect the Department of Corrections and Community Supervision/Parole (DOCCS) directly. The Division of Parole had already expanded the definition used in its policies and procedures manual (revision of Manual Item 9401.07), in anticipation and support of the new legislation. This expanded definition was included in Parole's 2009 statewide training, *Domestic Violence and Parole*, in which all staff (approximately 2000 people) participated.

Since 2009, Domestic Incident Reports (DIRs) completed by police officers on individuals known to be on parole have been required to be provided to the Division of Parole so that the information contained in the DIR can be integrated into the agency's supervisory goals. Now that police departments across the state have implemented the expanded definition, Parole expects to feel a great impact as the numbers of DIR's increase, including reports on individuals serving time on parole.

Statewide Implementation: Office for the Prevention of Domestic Violence

The Office for the Prevention of Domestic Violence (OPDV) worked with DCJS to develop informational materials related to Expanded Access, and to update police training materials. These efforts included:

- Working with the DCJS Office of Public Safety to update the basic course for mandatory police officer training and all other trainings that have a domestic violence component, to include the new statute.
- Developing an eJusticeNY Alert for law enforcement officers.³⁹
- Developing *A Police Guide To The New York "Expanded Access To Family Court" Law*.⁴⁰
- Contributing an article, *Expanded Access to Family Court, Two Years Later* to the eJusticeNY Newsletter.⁴¹

³⁸ In 2011 the Department of Correctional Services and Division of Parole were merged into the Department of Corrections and Community Supervision (DOCCS).

³⁹ Appendix 5: Guide for Law Enforcement: Fair Access Law

⁴⁰ Available at http://www.opdv.state.ny.us/professionals/criminal_justice/expandaccessfc.pdf.

⁴¹ Appendix 6

C. IMPACT ON THE COURTS

Criminal Courts and Domestic Violence Courts

The expansion of the definition of “family and household member” increases the number of domestic incidents in which suspects are subject to mandatory arrest, resulting in more criminal cases, and an increased burden on criminal courts. Domestic violence criminal cases typically originate in a criminal court; in some jurisdictions they are then referred to a specialized domestic violence criminal court.

New York State’s Domestic Violence Courts adjudicate criminal offenses involving family and household members.⁴² Since there are no delineated crimes of domestic violence in New York State, it is not possible to analyze the data from general purpose criminal courts to determine which cases are domestic violence cases. Instead we must look to data from the Domestic Violence Courts to get an indication of the impact of this new law on the criminal court system. Excluding domestic violence cases that were heard in general purpose criminal courts makes this data less complete, but comparing the demand on the criminal Domestic Violence Courts before and after the law was passed gives us some insight into the impact of the law on the court system.⁴³

Orders of Protection

Most domestic violence criminal cases result in the issuance of an order of protection. Therefore, the increase in the number of criminal cases was expected to lead to an increased number of criminal orders of protection.⁴⁴ However, because OCA’s criminal court data only shows the volume of orders of protection overall, not the relationship between the victim and the defendant, it is not possible to say exactly how much of the increase in orders of protection issued by the general purpose criminal courts in the time period examined resulted from Expanded Access. However, looking at the orders of protection issued by Domestic Violence Courts gives us some insight into orders of protection now being issued under the family offense classification.

⁴² Not every county has a domestic violence court: as of July 2011, 34 of these courts were in operation.

⁴³ Of the 34 Domestic Violence Courts, six do not report data to OCA, primarily town and village justice courts.

⁴⁴ Appendix 7 shows orders of protection that were entered in the order of protection registry by the various criminal and civil courts from 2007 through 2010.

Since 2006, there has been a consistent upward trend statewide in the issuance of orders of protection by Domestic Violence Courts, except for a slight dip in 2008. In 2009, the first full year of Expanded Access, there was a 33% increase in the issuance of Domestic Violence Court orders of protection, and in 2010, an additional 18% increase (mostly due to a 24% increase in orders issued by New York City courts as is shown in the charts below).

**New York State Unified Court System
Domestic Violence Courts
Orders of Protection Registered in Statewide Registry**

Year	Temporary OPs	Final OPs	TOTAL	Annual % Change
2006	27,009	5,128	32,137	
2007	33,487	5,809	39,296	22%
2008	30,335	5,964	36,299	-8%
2009	40,035	8,210	48,245	33%
2010	47,557	9,376	56,933	18%

**New York State Unified Court System
Domestic Violence Courts
Orders of Protection Registered in Statewide Registry
Courts Outside of New York City**

Year	Temporary OPs	Final OPs	TOTAL	Annual % change
2006	5,120	1,736	6,856	
2007	6,268	2,142	8,410	23%
2008	7,066	2,177	9,243	10%
2009	8,526	3,140	11,666	26%
2010	8,195	3,399	11,594	-1%

**New York State Unified Court System
Domestic Violence Courts
Orders of Protection registered in Statewide Registry
New York City Courts**

Year	Temporary OPs	Final OPs	TOTAL	Annual % change
2006	21,889	3,392	25,281	
2007	27,219	3,667	30,886	22%
2008	23,269	3,787	27,056	-12%
2009	31,509	5,070	36,579	35%
2010	39,362	5,977	45,339	24%

Number of Cases

As shown in the chart below, the number of cases heard in Domestic Violence Courts statewide from 2006 through 2010 followed the same trend as the number of orders of protection issued – an overall increase, with a slight dip in 2008. However, there was an over 7% increase in the number of domestic violence criminal court cases heard between 2007 and 2009, and an additional 6.5% increase in 2010, providing for an over 14% increase in Domestic Violence Court cases heard from 2007 to 2010.⁴⁵ It is impossible to determine with certainty how much of this increase is a result of the new law, and how much results from the overall increase in the incidence and prevalence of domestic violence.

⁴⁵ Some of the increase in cases outside NYC was due to the opening of new DV courts in 2009. Therefore, for those two years, data for only those courts that were already open in 2008 are also shown.

**New York State Unified Court System
Statewide Criminal Domestic Violence Court Cases (2006-2010)**

Year	Total Cases Statewide	Total Cases NYC	Total Cases Outside NYC	Courts in Operation
2006	32944	22611	10333	25
2007	32694	20027	12667	27
2008	29553	17166	12387	29
2009	35244	19130	16114	34
<i>2009 excluding courts not open in 2008⁴⁶</i>	<i>35035</i>	<i>19130</i>	<i>15905</i>	<i>(29)</i>
2010	37718	21819	15899	34

Integrated Domestic Violence Courts

Integrated Domestic Violence (IDV) Courts transfer criminal and civil domestic violence cases involving the same family to the same judge. The number of cases heard in IDV Courts for the entire state (New York City and counties outside NYC) is shown in the following table. Cases in IDV Courts did not increase in 2009 in the same manner as Domestic Violence Courts. Instead, the number of IDV cases actually decreased, although the number of families served increased.

⁴⁶ Not every county has a domestic violence court: as of July 2011, 34 of these courts were in operation.

**New York State Unified Court System
Statewide Integrated Domestic Violence Court Cases (2006-2010)**

Year	Total Cases Statewide	Total Families Statewide	Total Cases NYC	Total Cases Outside NYC	Total Families NYC	Total Families Outside NYC	Courts in Operation
2006	15265	2875	5461	9804	1169	1706	30
2007	16547	2966	6249	10298	1363	1603	38
2008	16967	2862	6484	10483	1292	1570	40
2009	17352	3297	6055	11297	1291	2006	45
2009 <i>excluding courts not open in 2008</i>	16572	3090	6055	10517	1291	1799	(40)
2010	17972	3454	6075	11897	1317	2137	46

Family Courts

The data show, as expected, that an increased number of family offense order of protection petitions were filed in Family Court since the law's passage. From July 28, 2008, when Expanded Access took effect, through December 31, 2010 (the end date for data considered in this report), both the number of filings and the number of orders of protection issued show a general, although uneven, upward trend.⁴⁷

- The number of newly eligible intimate partners filing family offense petitions represented only 10% of the total filings of family offense petitions in the third quarter of 2008, but reached 14.8% of the total filings of family offense petitions in the final quarter of 2010.⁴⁸
- During this time frame, a total of 21,423 family offense petitions were filed in Family Courts statewide by newly eligible intimate partners. As a result

⁴⁷Quarterly comparison data was provided by OCA on the numbers of family offense filings by, and temporary and permanent orders of protection issued to, individuals who meet the old and new definitions of intimate partner, in Family Courts statewide. That data may be viewed at <http://opdv.state.ny.us/law/expandedaccess/report1.html> (Report 1)

⁴⁸ Ibid.

of these petitions, 29,105 orders of protection were granted – 24,612 temporary orders, and 4,493 final orders.⁴⁹

There is also data for each quarter from July 2008 through December 2010 on the number of individuals filing family offense petitions against same-sex and opposite-sex partners, and on the age of applicants. Year-by-year summaries of this data are shown later in this report.

Training and Dissemination of Information

The Office of Court Administration (OCA) took several steps to ensure that judges and court staff were aware of the Expanded Access law, and knew how to handle the intimate partner cases that arose under the statute. In 2008, Chief Administrative Judge Ann Pfau issued a memorandum to judges and court personnel that explained the new law. This was accompanied by court forms that had been revised to reflect the requirements of the law. The statute was also covered in OCA's 2008 Legislative Update, which is provided to all judges.

In addition, training on the 2008 law was included in a range of programs, including the annual judicial seminars, the "New Judge School," and the Legal Update Program for court attorneys and attorney-referees. As OCA is increasingly moving to distance learning, rather than in-person training, information on the Expanded Access law has been incorporated into online and web-based programs, and into the court system's intranet and internet sites, to ensure that information is readily available to judges, court staff, and the public.

Courts' Interpretations of the New Expanded Definition

Despite initial training and guidance, courts have grappled with determining which relationships fit within the specific limits of the definition of intimate relationship. Several Family Court, Supreme Court and Appellate Court decisions have clarified these parameters by ruling on a variety of questions, including:

- the nature of the relationship:
 - who is an "intimate," including third parties, a married person's boyfriend, biological and adopted children with multiple parents and caregivers;
 - how long the duration of the relationship needs to be to qualify;
 - how long ago a past relationship can have occurred and still qualify.

⁴⁹Ibid. Multiple orders can be issued for a single petition.

- the nature of the acts alleged, including:
 - how proximate the date of the alleged acts needs to be;
 - whether the law should be applied retroactively to acts that predated the new statute.
- the status of affinity post-divorce.
- the requisite standing, such as adults bringing petitions on behalf of minors.

The courts have denied petitions for orders of protection in circumstances involving landlords and tenants and live-in caretakers. For more detailed information about these rulings, see the case law summary compiled by the non-profit Day One,⁵⁰ which includes the known significant decisions as of February, 2011.

Service Providers' Experiences With The Court System

Informal surveys conducted with domestic violence and LGBT service providers, previously described, offer some anecdotal evidence of their experiences with the court system's response to the new law. Many of the domestic violence service providers surveyed reported that their clients had encountered no problems related to Expanded Access in Family Court, either when it was first implemented or more recently. Several LGBT service providers reported that they had initially observed Family Court clerks not accepting petitions, and judges not issuing orders of protection, to adult or adolescent same-sex partners, but that these problems appear to have diminished over the past three years.

In determining the eligibility of those petitioning for an order of protection under the new definition of "members of the same family or household," service providers report that they have experienced Family Court judges generally requiring only the petitioner's attestation. However, a small minority report that they have seen some judges require other documentation regarding the relationships (lease, marriage license, etc.), or information regarding whether the relationship is sexual in nature.

A majority of service providers in both groups report that judges have routinely granted adolescents' petitions for orders of protection. However, a small minority report encountering judges who routinely deny such petitions because of the

⁵⁰ Available at <http://www.opdv.state.ny.us/law/expandedaccess/caselaw-summ-dayone-2-11.html>

petitioner's age, assign an attorney for the child, or require the minor to return to court accompanied by a parent. This information, although anecdotal, strongly suggests that there is still confusion regarding adolescents' ability to access Family Court for an order of protection.

D. IMPACT ON VICTIM SERVICES

Training and Dissemination of Information

Domestic violence and LGBT service providers reported that they trained staff primarily via printed information, presentations, or webinars offered jointly by the Office for the Prevention of Domestic Violence, the NYS Coalition Against Domestic Violence and the Empire Justice Center. When the law first passed, service providers surveyed had questions about who was included in the new definition of "intimate partner," particularly with regard to adolescents and victims in same sex relationships.

Providers indicated that they felt they still needed training related to adolescent victims and offenders, and how mandatory arrest, primary physical aggressor and DIR's apply in intimate partner cases – the same areas in which they felt that law enforcement needed more training.

Burdens and Benefits for Victim Service Agencies

It was anticipated that the expansion of the number of victims who could petition for orders of protection would increase the demand on victim service agencies, as victims sought help to navigate an unfamiliar legal system and perhaps became more aware of services available to them. Just under half of the domestic violence service providers reported that demand for services at their agencies had increased since the passage of the law (although it is impossible to know how much of that increase is attributable to the change in the law and how much may be attributable to an increased prevalence of domestic violence).

Demand for LGBT-competent domestic violence advocacy was reported to have increased by as much as 25%. Predictably, demand for court advocacy – helping victims navigate the legal system – has increased more than demand for shelter or other services. When individual victims encounter problems with law enforcement or the courts, both their need for services and the time advocates need to spend with them necessarily increase as well.

Individual LGBT service providers reported that, as a result of Expanded Access, non-LGBT advocates have become more open to learning about serving LGBT victims. Such learning and openness has great potential to improve domestic violence services to LGBT victims, and to contribute to important alliances among service providers.

E. IMPACT ON VICTIMS OF INTIMATE PARTNER VIOLENCE

Victim Utilization of Expanded Access

To describe those who have begun to exercise their rights under Expanded Access, this section reports data on order of protection *petitions*, not on orders of protection *granted*.⁵¹ The expanded definition of family/household membership under Expanded Access allows individuals in the following types of relationships to petition the Family Court for protection orders: dating or former dating partners; boyfriend/girlfriend (including same-sex partner); intimate partner—living together; registered domestic partners and civil unions, as well as other intimate partners.⁵² Persons in relationships previously able to access Family Court under the old definition (spouses, ex-spouses, child-in-common) retained their legal standing.

Gender

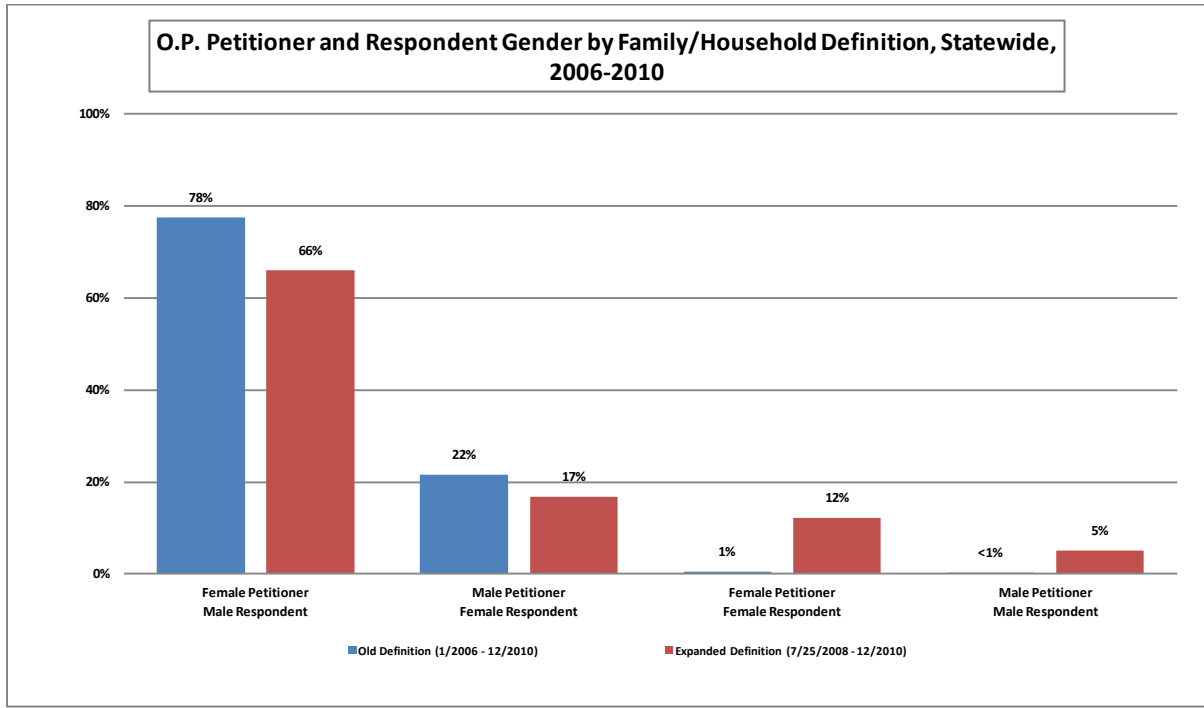
Like those covered under the old (pre-2008) definition of “family or household member,” the majority of individuals petitioning for an order of protection under Expanded Access are women seeking protection from male partners. As the following chart shows, from the effective date of the law through the end of 2010, statewide, 66% of intimate partner petitioners for Family Court orders of protection involved women filing against male respondents.⁵³ Some female

⁵¹ Comparison data can be found in Appendices 8 - 11. The number of orders of protection actually granted by the courts is lower than the number of petitions filed. Some individuals decide not to pursue getting an order, or have been intimidated by their partner into dropping their petition. In other cases judges may have deemed the petitioner ineligible to file or refused to grant the order for some other reason. Therefore, the number of initial requests for orders of protection is a better measure of the number of people who knew they could access the system.

⁵² These are relationship categories as defined by the Office of Court Administration in the UCMS Database.

⁵³ Except as noted, all data in this section comes from the Office of Court Administration, UCMS Database.

petitioners who currently are categorized under the new intimate partner definition may have been eligible to seek orders of protection under certain categories of the pre-2008 definition, such as having a child in common. However, 75% of those filing under Expanded Access – more than 13,000 women with male partners⁵⁴ – would not have been eligible under the pre-2008 definition.



Petitioner-respondent gender patterns are almost identical in NYC and in the rest of the state.⁵⁵ Gender patterns are also generally similar between the old (pre-2008) definition and the expanded (post-2008) definition, of intimate partners, except that in the expanded definition 16.2% more relationships are between female petitioner and female respondent.

Age

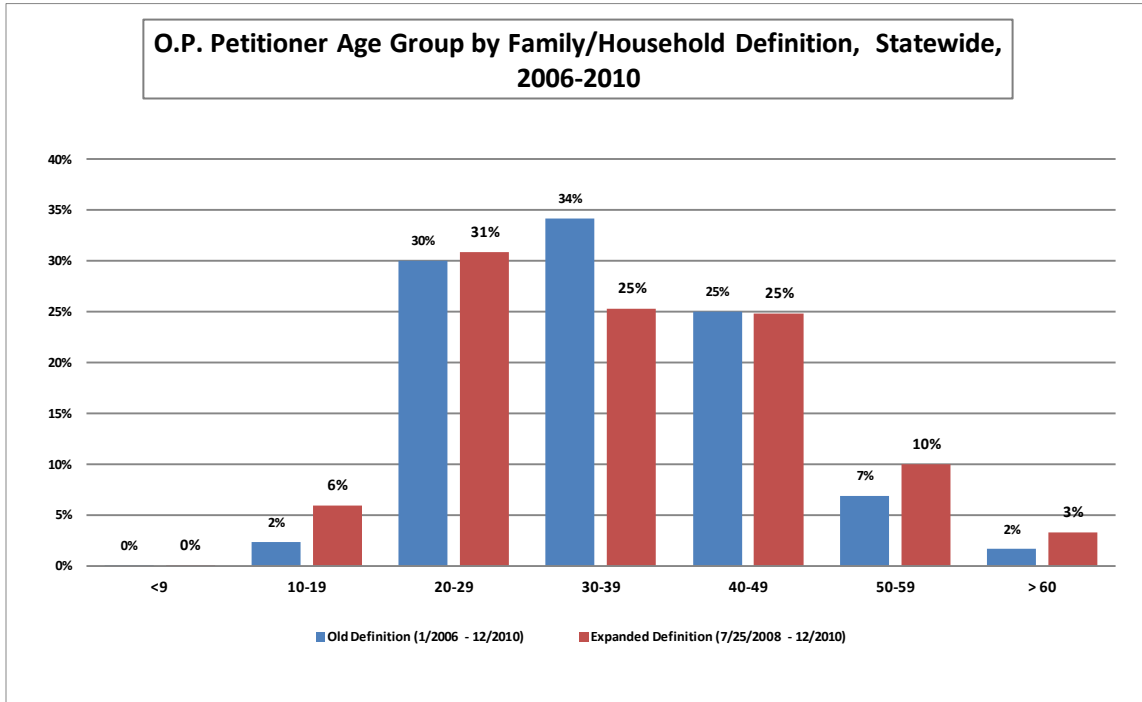
Several patterns emerged in the age ranges of petitioners.

- Petitioners between 20 and 50 years of age made up 89% of those filing for orders of protection.

⁵⁴ See Appendix 8: Petitioner Gender, for numerical breakdown.

⁵⁵ See Appendix 8: Petitioner Gender.

- Petitioners in the expanded definition group tended to be younger. Persons 24 years of age or younger comprised 21% of those petitioning under the expanded definition, compared to 15% of those who qualified under the pre-2008 definition.
- A slightly higher percentage of expanded definition petitioners (38%) were age 40 or older, compared to 34% of those who fit the pre-2008 definition.
- Expanded definition petitioners seeking protection from a *former partner* peaked in the 20-29 age range (35% or 4,568 of 12,949). Those who were *living with the respondent* at the time of petition peaked in the 40-49 age group (32% or 626 of 1,952).⁵⁶ This age-relationship pattern holds for petitioners filing against both same-sex and opposite-sex partners.



The statewide pattern among petitioner ages is almost identical in New York City and the rest of the state.⁵⁷

⁵⁶ See Appendix 9: Expanded Definition Intimate Partner Relationship by Age.

⁵⁷ Appendix 10: Intimate Partner Relationship Type by Age and Region

Minors

The table below shows the age distribution for petitioners who were 21 years old or younger. Both before and after the passage of Expanded Access, roughly 90% of minor petitioners—persons under 18 years old—were between ages 16 and 17. Between 2006 and 2010, 15,594 individuals age 21 and younger petitioned for an order of protection in New York State. Of these, 2,533 (16%) fell under Expanded Access, as shown in the following table.

O.P. Petitioners Age 21 and Under, Statewide, 2006-2010						
Petitioner Age (in years)	IP Relationship				Total	
	Old Definition (1/2006-12/2010)		Expanded Definition (7/25/2008-12/2010)			
	Number	Percent	Number	Percent	Number	Percent
0	18	0%	4	0%	22	0%
1	4	0%	0	0%	4	0%
2	2	0%	1	0%	3	0%
4	1	0%	0	0%	1	0%
5	2	0%	0	0%	2	0%
6	1	0%	1	0%	2	0%
7	1	0%	0	0%	1	0%
8	1	0%	0	0%	1	0%
9	4	0%	1	0%	5	0%
10	4	0%	0	0%	4	0%
11	3	0%	0	0%	3	0%
12	3	0%	1	0%	4	0%
13	5	0%	2	0%	7	0%
14	12	0%	6	0%	18	0%
15	38	0%	33	1%	71	0%
16	180	1%	89	4%	269	2%
17	583	4%	224	9%	807	5%
18	1,382	11%	414	16%	1796	12%
19	2,586	20%	501	20%	3087	20%
20	3,570	27%	610	24%	4180	27%
21	4,661	36%	646	26%	5307	34%
Total	13,061	100%	2,533	100%	15,594	100%

The number of minor petitioners can be expected to rise as awareness of options under Expanded Access increases among young persons, and as service providers, law enforcement and the courts gain greater clarity about how the law

applies in cases involving adolescent victims and/or perpetrators. In the five years from 2006 through 2010, a total of 844 minors petitioned Family Court for an order of protection under the pre-2008 definition. Since Expanded Access took effect in 2008, an additional 358 minor petitioners sought orders of protection in Family Court, a 42% increase in filings.

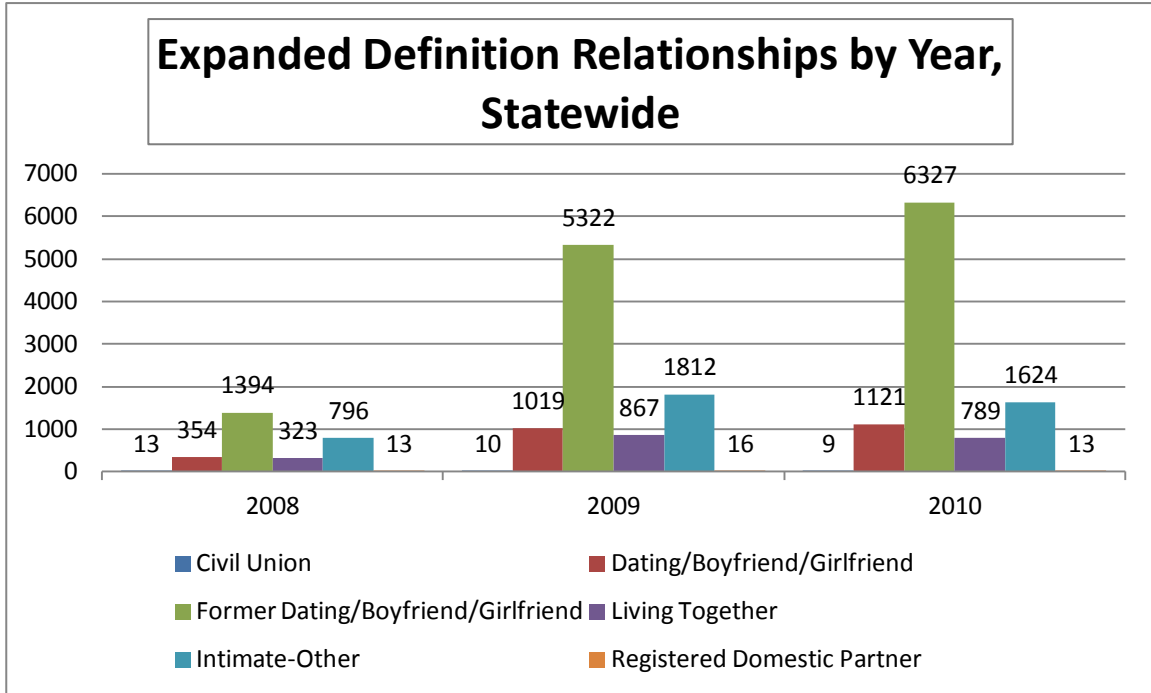
Nature of Relationship

Unlike individuals who fit within the pre-2008 definition of family or household member, most of who filed for orders of protection against *current* partners, the vast majority of individuals who file under the expanded definition file for orders of protection against *former* intimate partners.⁵⁸ Of the 116,609 old pre-2008 definition petitions in which the current or former status of the parties' relationship could be determined, 46% involved current partners, while only 9% involved former partners. In contrast, of the 15,537 expanded definition petitions, 11% involved current partners, while 60% involved former partners.

A smaller number of petitioners under the expanded definition identify their relationship as current partners, living together, or other intimate, and fewer than 1% identify the relationship as civil union or registered domestic partner. The percentage of expanded definition petitioners filing against former partners increased over time, from 48% statewide in 2008, to 64% in 2010. The pattern of relationships in NYC and the rest of the state is similar to the statewide pattern that is shown in the chart below, except that NYC has a larger proportion of "intimate other" relationships than the rest of the state, 29% vs. 13%.⁵⁹

⁵⁸ Appendix 11: Order of Protection Petitions by Relationship Category and Region

⁵⁹ See Appendix 11.



Same-Sex Relationships

From July 28, 2008 to December 30, 2010, 929 people applied for Family Court orders of protection against same-sex partners, with a 19% increase in filings against same-sex partners from December 30, 2009 to December 30, 2010.⁶⁰

One factor in that increase may have been the fact that during that time period, the NYC Gay and Lesbian Anti-Violence Project (AVP – the largest agency in the state serving LGBT victims) informed 1,100 clients seeking domestic violence services about their right to seek an order of protection in Family Court.

As understanding of LGBT victims’ eligibility for civil orders of protection becomes more widespread, the proportion of petitioners with same-sex partners may be expected to grow.

⁶⁰ Office of Court Administration. Data may be viewed at <http://opdv.state.ny.us/law/expandedaccess/report1.html> (Report 1).

Service Providers - Education and Training on Expanded Access

More than half of domestic violence service providers responding to the survey said they had offered educational programs on Expanded Access to their communities, and a few had offered training for police, the LGBT community, and/or adolescents. LGBT domestic violence service providers reported offering a wide range of training for all of these groups, with an emphasis on information for the LGBT community and outreach to adolescents.

A few agencies have developed public education brochures on Expanded Access for the LGBT community,⁶¹ adolescents,⁶² and those who provide services to adolescents.⁶³

Benefits of Expanded Access for Victims

Domestic violence and LGBT service providers surveyed were asked how they thought Expanded Access benefitted their clients. Domestic violence service providers reported that they were better able to serve heterosexual intimate partner victims (88%), LGBT victims (71%) and adolescent victims (53%) since the law's passage. LGBT service providers were asked an open-ended question about the benefits they saw arising from the law. Most mentioned the significance of being able to help their clients obtain orders of protection, law enforcement's completion of DIRs in same-sex partner cases, and LGBT victims having the same rights and protections as other victims.

⁶¹ See Appendix 12 and 13.

⁶² Can Teens Get an Order of Protection,
http://www.dayoneny.org/dayone/get_informed/can_teens_eng.pdf

⁶³ Increased Legal Protections Now Available to Victims of Relationship Abuse,
http://www.dayoneny.org/dayone/get_informed/svc_pvd_ct_chin_eng.pdf

CONCLUSION

Data regarding impact of the Expanded Access law is limited. The clearest conclusion to be made, based on data alone, is that a large number of individuals have taken advantage of the civil remedy now available to them. Given that some of the distinctions between who previously had access to this remedy and who has access now were simply based on court jurisdiction parameters, not on the needs of domestic violence victims, this is a very welcome and important improvement.

As needed as this change was, it had a measurable impact on the Family Courts. Petitions for orders of protection have increased significantly, and although these cases typically resolve in two or three court appearances, they have necessarily increased the workload of judges and other court personnel.

Data regarding the impact of the legislative change on the criminal justice system is much harder to measure. Clearly, many more cases are now categorized as domestic violence, but precise information about what additional work is associated with that re-categorization is not available. We know that more DIR's are being completed, more primary physical aggressor analyses are being done and more cases are making their way to the criminal court, but we do not know exactly how many there are, or how many are a direct result of the law's passage.

Police departments, state agencies, and the court system have had to commit significant personnel resources to updating information systems, implementing training, and auditing their systems to ensure that the new law was being followed correctly. Victim service providers have had to work hard to train their own staff on the new remedy available to many of their clients, and are finding that they need to increase their expertise in working with gay and lesbian clients, as well as teen clients. This need has also paved the way for more partnerships and collaborations.

The summary chart of data used to compile this report, below, shows an increase in many indicators.

SUMMARY OF DATA

Indicator	2008 statewide total	2009 statewide total	% of increase
Family Court Required OPs (OCA)	61,154	70,062	15%
Criminal family offense OPs ^a (OCA)	106,270	131,645	24%
DV Court OPs (OCA)	36,299	48,245	33%
DV Court cases (OCA)	29,553	35,035 ^b	19%
IDV Court cases (OCA)	16,967	16,572 ^b	-2%
Families served in IDVC (OCA)	2862	3090*	8%

^a Includes DV Courts, other local criminal courts, Supreme Criminal Court, and town and village courts; includes only those OPs required to be reported to the OP registry. ^b Excludes courts not open in 2008, all of which were outside NYC.

Finally, it is heartening to see that in only three years, this new definition – some form of which had been recommended for over twenty years – has become the “new normal.” Most operational obstacles have been overcome, and it is up to judges to continue to refine the scope of the expanded jurisdiction of the Family Courts. Given the historical challenges with multiple definitions of domestic violence found in the laws of New York, this change will ensure that future efforts to strengthen the legal response to domestic violence will benefit all victims.

APPENDICES

1. Overview of major limitations of UCR data
2. Misdemeanor and Felony Domestic Violence Victim Charts (NYC)
3. Changes in Reported Victimizations, 2007 – 2010
4. NYPD Domestic Violence Unit Training Bulletin #11 Intimate Partners
5. Guide for Law Enforcement: Fair Access Law
6. Review of Expanded Access Two Years Later, DCJS, *e-JusticeNY Newsletter*, pp 21-23
7. Criminal Court Orders of Protection – 2007 - 2010
8. Petitioner Gender; Petitioner Gender by Respondent Gender
9. Expanded Definition Intimate Partner Relationships by Age
10. Intimate Partner Relationship Type by Age and Region
11. Order of Protection Petitions by Relationship Category and Region
12. LGBTQ Domestic Violence Network brochure: *Tips for Seeking an Order of Protection from Family Court – For LGBTQ Communities*
13. NYC Anti-Violence Project fact sheet: *LGBTQ People and Orders of Protection in New York State Family Court*

APPENDIX 1

Limitations of Uniform Crime Reporting (UCR) Data

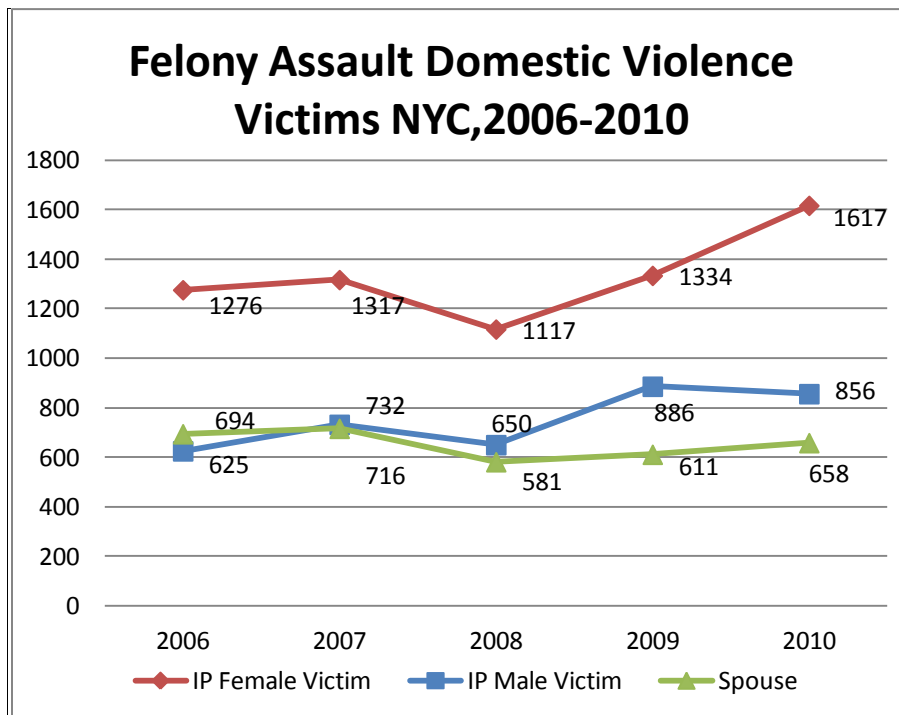
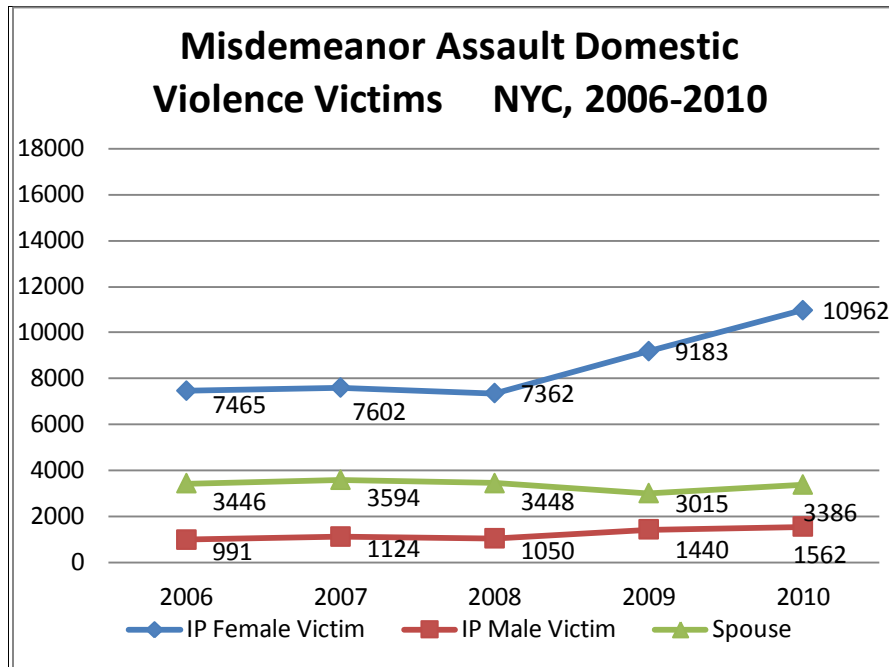
1. In 2008, to be consistent with Expanded Access the categories of “Common Law Wife/Husband” were changed to “Intimate Partner Female/Male,” increasing the potential number of victims who could be reported. Jurisdictions did not all make this reporting change at the same time, making it difficult to compare across jurisdictions. The change from Common-law Spouse to Intimate Partner shows a huge jump from 2007 to 2010, but it must be interpreted with caution.
2. Because UCR data is not broken down by the gender of the offender, it does not provide information on same-sex vs. opposite-sex domestic violence crimes.
3. Unrelated changes in the definitions of certain crimes and in certain law enforcement data collection procedures occurred around the same time Expanded Access took effect. These changes make it difficult to attribute observed changes to Expanded Access with any degree of confidence. The major relevant changes are:
 - In 2009, the UCR crime classification for aggravated harassment in the second degree (PL 240.30) was changed to simple assault, which means that victim-based data on simple assault for 2009 and 2010 cannot be compared to prior years. There was a substantial increase in simple assaults in 2009, but it is impossible to know how much of it was due to the reclassification of aggravated harassment, how much to a general increase in domestic violence crimes (both simple assault and aggravated harassment are very common domestic violence charges), and how much to Expanded Access.
 - UCRs have included dating relationships since 2008, and more reliably since 2009. “The 2008 and 2009 domestic violence data from the UCR Program should not be compared to prior years due to the new reporting procedures phased in beginning in May 2008. An increase or decrease in reported domestic violence from 2007 to 2008 likely reflects changes in how domestic violence is being measured and not the actual number of reported victimizations.”⁶⁴ Numbers therefore reflect changes in volume, but not the change in the law.
 - In 2008, “Other Offenses” was changed to “Other *Violent* Offenses,” limiting the number of offenses that could be reported.

⁶⁴ http://www.criminaljustice.state.ny.us/crimnet/ojsa/crimereporting/ucr_refman/dv_report_detail.pdf

APPENDIX 2

Misdemeanor and Felony Domestic Violence Victim Charts (NYC)

The two charts listed below were provided by the New York City Police Department. The categories shown in the charts below are not comparable to the Non-NYC charts provided for on pages 18 and 19 of the report.



APPENDIX 3**Changes in Reported Domestic Violence Victimization, 2007 - 2010**

Domestic Violence Victims - UCR Data 2007 and 2010 Non-NYC									
		Victim Offender Relationship							Total
		Wife by Husband	Husband by Wife	Child by Parent	Parent by Child	Other Family	IP Fem Victim	IP Male Victim	
2007	Aggravated Assault	561	162	236	298	1,128	486	206	3,077
	Simple Assault	4,775	1,281	1,582	2,895	6,007	6,340	1,312	24,192
	Sex Offense	70	4	230	35	486	207	14	1,046
	Violated Protective Order	1,715	387	259	691	1,985	716	58	5,811
	Total	7,121	1,834	2,307	3,919	9,604	7,749	1,590	34,124
Victim Offender Relationship									
		Wife by Husband	Husband by Wife	Child by Parent	Parent by Child	Other Family	IP Fem Victim	IP Male Victim	Total
2010	Aggravated Assault	456	187	323	417	900	1,224	521	4,028
	Simple Assault	6,042	1,782	2,432	4,263	9,420	15,642	6,174	45,755
	Sex Offense	77	3	207	75	487	289	28	1,166
	Violated Protective Order	1,234	203	177	208	1,119	2,184	227	5,352
	Total	7,809	2,175	3,139	5,035	11,926	19,339	3,950	53,373

Volume Change, 2007 - 2010		Victim Offender Relationship						IP Male Victim	Total
		Wife by Husband	Husband by Wife	Child by Parent	Parent by Child	Other Family	IP Fem Victim		
	Aggravated Assault	-105	25	87	119	-228	738	315	951
	Simple Assault	1,267	501	850	1,368	3,413	9,302	4,862	21,563
	Sex Offense	7	-1	-23	40	1	82	14	120
	Violated Protective Order	-481	-184	-82	-483	-866	1,468	169	-459
	Total	688	341	832	1,116	2,322	11,590	2,360	19,249

APPENDIX 4



NYPD Domestic Violence Unit *Training Bulletin # 11* **INTIMATE PARTNERS**

5/14/09



Introduction:

Recently, a bill was signed into law which amends the Family Court Act and Criminal Procedure Law definition of a “member of the same family/household” to include: ***“persons who are not related by consanguinity (blood) or affinity (marriage) and who are or have been in an intimate relationship regardless of whether such persons have lived together at any time.”*** The law goes on to provide factors the court may consider in determining whether a relationship is in fact an “*intimate relationship*,” regardless of whether the relationship is sexual in nature. These factors are: 1) The frequency of interaction between the persons 2) The duration of the relationship.

Intimate Relationship:

Members of the service shall utilize a ***common sense standard regarding the totality of the circumstances*** involving the relationship when determining if an ***Intimate Relationship*** exists. Members of the service should consider the following factors when determining Intimacy:

- 1) The frequency of interaction between the persons
- 2) The duration of the relationship
- 3) Shared expenses
- 4) Extent of interaction with family members

NOTE: *Police Officers should realize that neither a casual acquaintance nor ordinary fraternization between two individuals in a business or social context shall be deemed to constitute an “intimate relationship”. Members of the service shall investigate the nature of the relationship and solicit from the complainant a characterization of the relationship to help them determine if it qualifies. In addition to the four (4) factors enumerated above, members of the service should elicit information from the complainant concerning the nature of the relationship when applying a common sense standard as part of the totality of the circumstances when making their determination.*

If a member of the service is unable to make a determination that an ***Intimate Relationship*** exists, request the response of the Patrol Supervisor to make such determination. All members of the service are reminded that their primary responsibility is to ensure the immediate and future safety of all parties involved in domestic violence incidents. Members of the service are required to prepare a **N.Y.S. Domestic Incident**

Report (DCJS 3321) for ALL CASES involving persons belonging to the NYS Family Court Act or NYPD Expanded Definition of a Domestic Relationship.

NYS Family Court Act Relationships:

- * Married
- * Formerly Married
- * Related by Blood
- * Related by Marriage
- * Child in common
- * ***Intimate Relationship or Former Intimate Relationship***

NYPD Expanded Definition:

- * Living together in a family type relationship
- * Formerly living together in a family type relationship

Arrests:

Members of the service should be aware that the following aspects of the Criminal Procedure Law relating to domestic incident arrests now apply to ***Intimate Relationship***.

1) Primary Physical Aggressor Law (140.10): “...*When an officer has reasonable cause to believe that more than one family or household member has committed such a misdemeanor, the officer is not required to arrest each such person. In such circumstances, the officer shall attempt to identify and arrest the primary physical aggressor after considering: (i) the comparative extent of injuries... (ii) whether any such person is threatening or has threatened future harm... (iii)...prior history of domestic violence... (iv) whether any such person acted defensively...*”

2) Mandatory Arrests Law (140.10): Mandatory Arrest Applies when an officer has probable cause to believe a (1) *Felony* has been committed (2) an *Order of Protection* has been violated (3) a *Misdemeanor* has been committed, unless the c/v requests otherwise, on his or her own volition and the officer agrees (4) a *Violation* has been committed in the officer’s presence, unless the c/v requests otherwise, on his or her own volition.

Complaint Reporting:

Members of the service should be aware that the following changes and additions have been made to the *Complaint Report Worksheet (PD 313-152A)* relating to ***Intimate Relationship*** domestic incident crime reporting.

- 1) The caption of the “Domestic Incident Report Required?” “Yes/No” check-off field has been changed to: “***Domestic Incident Report required because Incident involved persons belonging to the NYS Family Court Act or NYPD expanded definition of a domestic relationship.***”
- 2) The addition of a new field captioned “***Child in Common?***” requiring the completion of a “Yes/No” check-off option.

3) The addition of a new field captioned “*Intimate Relationship?*” requiring the completion of a “Yes/No” check-off option.

Digital Photographical Evidence:

Members of the service should be aware that digital photographic evidence is **REQUIRED** for *Intimate Relationship* domestic incidents involving *personal injury and/or property damage*.

Members of the service should be aware that the following additions to the digital photo database have been made.

1) On the first uploading screen that asks “*Is this a Domestic Violence Record,*” the caption “*Intimate Relationship*” has been added.

2) Under the “*defendant tab*” sub caption “*Domestic Violence Relationship,*” the caption “*Intimate Relationship*” has been added.

APPENDIX 5



NEW YORK STATE
OFFICE *for the* PREVENTION *of* DOMESTIC VIOLENCE

Guide for Law Enforcement Fair Access Law

WHAT THE LAW SAYS

With the passing of the Expanded Family Court Access Bill, amending the Family Court Act (FCA §812-1) and the Criminal Procedure Law (CPL §530.11), the jurisdiction of Family Court has been expanded to provide access to those who are in an “intimate relationship” – who are non-married, non-parent victims of domestic violence, regardless of whether they are currently, formerly or have at any point lived together or engaged in sexual relations. This protection has also been extended to adolescents in dating relationships who may also be victims of domestic violence. PL 530.11-1(c) & FCA 812-(c).

PRACTICAL EFFECT ON POLICING – MANDATORY ARREST

The change in the law means an increase in police coverage under CPL § 140.10(4). *Mandatory arrest provisions will now apply to “persons in an intimate relationship,” as defined in CPL § 530.11-1(e) and FCA § 812-1(e) and you must complete DIRS at all calls involving or alleging “persons in an intimate relationship”*

When responding to a DV call, you should simply inquire whether the parties involved are in, or believe they are in an ‘intimate relationship’. You should not attempt to make the determination of intimacy beyond the initial inquiry. Exactly what constitutes an “intimate relationship” will be decided by each individual judge, based on the facts of the case. The law does list a few specific factors to consider in determining what an intimate relationship is (this list is not exhaustive, however):

- The nature or type of relationship, regardless of whether the relationship is sexual in nature;
- The frequency of interaction between the persons; and
- The duration of the relationship.

****Casual acquaintances and interactions between two individuals in “business or social contexts” are not considered an intimate relationship under this bill.****

PRIMARY AGGRESSOR ANALYSIS – TEENS AND LGBT

Conducting a primary aggressor analysis within the expanded populations should be no different than you currently do now. You should always follow the evidence as to the nature of the injury, the story being told and whether the injury or physical evidence supports the story. However, when dealing with either the LGBTQ or teen populations, determining the primary aggressor by considering the size differences between the parties may not lead you to the conclusion as to who is the primary aggressor in the reporting incident since persons in these groups may not show a significant difference in size. You should always do a careful analysis of the immediate incident and the history of domestic violence between the parties.

FAMILY COURT AS A RESOURCE

Family Court is purely another resource that can be utilized in preventing and reducing domestic violence. The expansion of Family Court is simply an additional resource for intimate partner victim to utilize and referral source for you – it is NOT meant to replace an arrest where mandated and/or appropriate.

APPENDIX 6



Office for the Prevention of Domestic Violence (OPDV) Review of Expanded Access Two Years Later

Page 21

As of July 21, 2008, the Family Court definition of “family and household member” includes individuals in an “intimate relationship.”ⁱ The result was a profound expansion of the types of relationships recognized by Family Court for Orders of Protection, and by the Penal Law for the imposition of mandatory arrest and DIR completion. The legal changes are found in the Family Court Act, as well Criminal Procedure Law (CPL)ⁱⁱ §140.10(4) (expanding the application of mandatory arrest to individuals in an intimate relationship) and CPL 140.10(5) (requiring the completion of a Domestic Incident Report (DIR) to this new category of persons in an intimate relationship). What this change essentially means for law enforcement is that a new group of individuals are now included in the mandatory arrest and DIR provisions of the CPL, and a new resource was made available to domestic violence victims who fell within the new expanded definition.

What Do the Courts consider to be an Intimate Relationship?

The law gives only a broad definition of intimate relationship - “persons who are not related by consanguinity or affinity and who are or have been in an intimate relationship regardless of whether such persons have lived together at any time.”ⁱⁱⁱ The law additionally provides that “(n)either a casual acquaintance nor ordinary fraternization between two individuals in business or social context shall be deemed to constitute an “intimate relationship.”^{iv} The statute then lists factors for a Court to consider in making the determination of whether an “intimate relationship” exists. They include, but are not limited to, “the nature or type of relationship, regardless of whether the relationship is sexual in nature; frequency of interaction between the persons; and the duration of the relationship.”^v As with any new legal concept, further clarification would be provided once judges made decisions on individual cases. As providers attempted to use the new law, important clarifying questions were raised: Is one date enough to constitute an intimate relationship? What if one party considers it an “intimate relationship,” but the other doesn’t? If the relationship does not have to be sexual in nature, do close friends meet the definition? These are just a few of the questions still being posed by those charged with enforcing the law. Thus far, the courts have made limited progress further clarifying “intimate relationship” through case law. Family Court cases rarely result in published decisions, and this area is no exception. What we have learned so far is that some courts have considered the following relationships to be “intimate” for the purpose of the statutory definition:

Between two women, one currently dating the former boyfriend of the other^{vi};

Between a child and his/her biological mother, where that mother had given the child up for adoption^{vii};

Between an ex-daughter-in-law and father-in-law, where the former husband resides with his father and the couple have a child in common^{viii}; and

Between a woman and her boyfriend engaged in an extramarital affair^{ix}.

The Courts have not considered the following to constitute “intimate relationships”:

Between two men, where one is the current live-in boyfriend of a woman, and the other the former boyfriend, where there exists a child in common between the woman and the former boyfriend^x

Between a landlord and tenant^{xi};

Between a girlfriend and her boyfriend's sister^{xii}; and

Between a father and the staff of the placement foster care agency for his children^{xiii}.

In all of the above cases the Court's analysis went to the nature and type of the relationship, the duration of the relationship, and the quality/quantity of the contacts between the parties involved. Still there was no clear, consistent outcome, as evidenced by the dichotomy of the current/former relationships based on the gender of the parties petitioning the court. Not all of these decisions are binding on all other courts, so we still only have the beginning of judicial guidance on the scope of an intimate relationship.

How is this new Definition Being Used?

Despite the fact that there are but a handful of cases shaping the definition of what an "intimate relationship" might look like, there have been 16,383 filings for Orders of Protection in family courts throughout the state from July 23, 2008 through June 30, 2010, representing approximately 12% of the total filings for family court orders of protection. When individuals file for an order of protection in family court, they are asked to identify the nature of their relationship. Therefore, we know that of all petitions filed, 1,657 were filed by individuals 21 years of age and under. ^{xiv} Since the intent of the law was to extend the availability of civil protection orders to dating and formerly dating couples, teens and same sex couples, it appears to be, at least in part, meeting that goal. The court clerks have been instructed to accept any petition filed, and leave the decision as to whether the relationship fits the new definition up to the judge.

The Value of a Civil Order of Protection

Although seeking an order of protection can be a risky decision for a victim, it is an important tool many abused individuals utilize. At least one recent study has suggested that a permanent civil order of protection is correlated with a decrease in the levels of police-reported violence 12 months after obtaining a permanent order.^{xv} Another recent study compared the economic cost of abuse to the cost of protective orders. The costs included things such as mental health services, medical services, legal services (civil legal services and the court system costs such as operating expenses etc.), lost time from work, social activities, property damage/loss, shelter and advocacy - all related to services reported as used by participants in the study over the six months prior to the beginning of the study. The study concluded that "every dollar spent on the protective order intervention produced \$30.75 in avoided costs to society. The state of Kentucky saved \$85 million over a one-year period because of the significant declines in abuse and violence."^{xvi}

What Remains to be Done

Over the past two years, OPDV has been canvassing the community in an effort to obtain information on how the law is being implemented locally. What we have been able to ascertain from meetings with law enforcement and stakeholders within the DV community is that while generally individuals who want access to Family Court are getting it, there are concerns regarding a lack of training for advocates and law enforcement, as well as concerns about the enforcement of the expanded mandatory arrest and DIR provisions of the new law. As a result, OPDV has been conducting trainings, providing written guidance on the law, and is offering technical assistance when requested. We remain concerned that since there has not been a strong training or public awareness effort connected to the new law, that many individuals who are potentially eligible may not be taking advantage of it.

So although the passage of this law was truly momentous for New York, more needs to be done. Law enforcement must consistently enforce the mandatory arrest and DIR laws using the guidance we have

provided [link]. Police should err on the side of inclusiveness when in doubt – if a party said he/she is in an intimate relationship, take them at their word. That way we'll allow the courts to further define intimate relationships, and we'll all have clearer guidance going forward. We need to provide training to all stakeholders to ensure that there is a common point of reference in handling such cases, and make sure that everyone informs victims of the availability of Family Court as a possible additional resource. By doing so we not only protect victims and their families, but we may achieve a real cost benefit to society as a whole.

For More Information, Training or Technical Assistance on Expanded Access”
criminaljustice@opdv.state.ny.us

i FCA §812(1)(e)

ii CPL § 530.11(1)(e)

iii FCA §812(1)(e)

iv Id

v Id

vi R.M.W. v. G.M.M., 23 Misc.3d 713 (Nassau Co. Fam. Ct. 2009)

vii K.J. v. K.K., 23 Misc.3d 754 (Orange Co. Fam. Ct. 2009)

viii Maria B. v. NDoc S., 4/10/2009 N.Y.L.J. 27 (col. 1)

ix Jessica D. v. Jeremy H., --- N.Y.S.2d --- (N.Y.A.D. 3 Dept. 2010)

x Mark W. and Damion W., 887 N.Y.S.2d 822 (Kings Co. Fam. Ct. 2009) and

Winbrone v. Winn, 8/20/2009 N.Y.L.J. 30 9col. 1)

xi Rollerson v. New, 901 N.Y.S.2d 515 (Kings Co. Fam. Ct. 2010)

xii Seye v. Lamar, 900 N.Y.S.2d 112 (2nd Dept. 2010)

xiii Matter of B.H. Children, 2010 WL 2635825 (N.Y. Fam. Ct. 2010)

xiv Relevant data for the criminal court and Supreme Court Criminal Division are not available at this time.

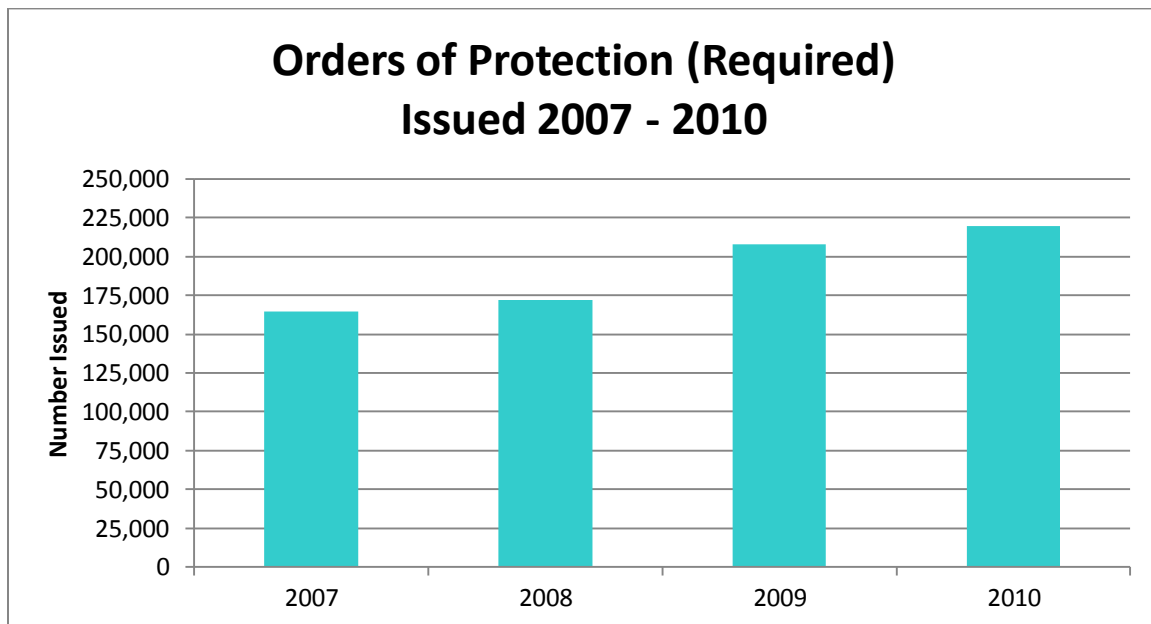
xv Holt et al Civil Protection Orders and Risk of Subsequent Police-Reported Violence, JAMA; 2002

xvi Logan et al. The Kentucky Civil Protective Order Study: A Rural and Urban Multiple Perspective Study of Protective Order Violation Consequences, Responses, & Costs; 2010. In Nikki Hawkins, Perspectives on Civil Protective Orders in Domestic Violence Cases: The Rural and Urban Divide, NIJ; 2010.

APPENDIX 7

Criminal Court Orders of Protection, 2007 – 2010

Orders of Protection in UCS' Domestic Violence Registry (Required) 2007 - 2010								
Statewide	Temporary				Final			
	2007	2008	2009	2010	2007	2008	2009	2010
Family Court	46,757	49,446	56,449	60,121	11,731	11,708	13,613	13,989
Local Criminal Court	63,166	67,518	82,113	89,886	11,773	12,041	15,897	16,939
County/Supreme Criminal Court	13,188	14,526	18,523	16,893	3,768	3,625	3,880	3,423
Supreme Civil/Supreme Court	3,364	3,196	4,096	4,207	1,725	1,667	1,923	1,998
Town and Village Court	6,906	6,606	8,652	9,763	1,953	1,957	2,580	2,657
Total	133,381	141,292	169,833	180,870	30,950	30,998	37,893	39,006



APPENDIX 8

Family Court Orders of Protection Requested – Petitioner Gender

Statewide	IP Relationship				Total	
	Old Definition		Expanded Definition			
	1/2006 - 12/2010		7/25/2008 - 12/2010			
Female	164342	78.1%	17043	78.1%	181385	78.1%
Male	46109	21.9%	4769	21.9%	50878	21.9%
Total	210451	100.0%	21812	100.0%	232263	100.0%
New York City	IP Relationship				Total	
	Old Definition		Expanded Definition			
	1/2006 - 12/2010		7/25/2008 - 12/2010			
Female	47513	78.8%	6878	77.5%	54391	78.6%
Male	12779	21.2%	1996	22.5%	14775	21.4%
Total	60292	100.0%	8874	100.0%	69166	100.0%
Rest of State	IP Relationship				Total	
	Old Definition		Expanded Definition			
	1/2006 - 12/2010		7/25/2008 - 12/2010			
Female	116829	77.8%	10165	78.6%	126994	77.9%
Male	33330	22.2%	2773	21.4%	36103	22.1%
Total	150159	100.0%	12938	100.0%	163097	100.0%

Family Court Orders of Protection Granted – Petitioner Gender

Statewide	IP Relationship				Total	
	Old Definition		Expanded Definition			
	1/2006 - 12/2010		7/25/2008 - 12/2010			
Female	119625	83.5%	11551	82.7%	131176	83.4%
Male	23695	16.5%	2409	17.3%	26104	16.6%
Total	143320	100.0%	13960	100.0%	157280	100.0%
New York City	IP Relationship				Total	
	Old Definition		Expanded Definition			
	1/2006 - 12/2010		7/25/2008 - 12/2010			
Female	36869	85.4%	4268	82.6%	41137	85.1%
Male	6311	14.6%	899	17.4%	7210	14.9%
Total	43180	100.0%	5167	100.0%	48347	100.0%
Rest of State	IP Relationship				Total	
	Old Definition		Expanded Definition			
	1/2006 - 12/2010		7/25/2008 - 12/2010			
Female	82756	82.6%	7283	82.8%	90039	82.7%
Male	17384	17.4%	1510	17.2%	18894	17.3%
Total	100140	100.0%	8793	100.0%	108933	100.0%

Family Court Orders of Protection Requested –

Petitioner Gender by Respondent Gender

Statewide	IP Relationship				Total	
	Old Definition (1/2006 - 12/2010)		Expanded Definition (7/25/2008 - 12/2010)			
Female Petitioner Male Respondent	163133	77.5%	14387	66.0%	177520	76.4%
Male Petitioner Female Respondent	45490	21.6%	3663	16.8%	49153	21.2%
Female Petitioner Female Respondent	1209	0.6%	2656	12.2%	3865	1.7%
Male Petitioner Male Respondent	619	0.3%	1106	5.1%	1725	0.7%
Total	210451	100.0%	21812	100.0%	232263	100.0%
New York City	IP Relationship				Total	
	Old Definition		Expanded Definition			
Female Petitioner Male Respondent	47046	78.0%	5369	60.5%	52415	75.8%
Male Petitioner Female Respondent	12534	20.8%	1407	15.9%	13941	20.2%
Female Petitioner Female Respondent	467	0.8%	1509	17.0%	1976	2.9%
Male Petitioner Male Respondent	245	0.4%	589	6.6%	834	1.2%
Total	60292	100.0%	8874	100.0%	69166	100.0%
Rest of State	IP Relationship				Total	
	Old Definition		Expanded Definition			
Female Petitioner Male Respondent	116087	77.3%	9018	69.7%	125105	76.7%
Male Petitioner Female Respondent	32956	21.9%	2256	17.4%	35212	21.6%
Female Petitioner Female Respondent	742	0.5%	1147	8.9%	1889	1.2%
Male Petitioner Male Respondent	374	0.2%	517	4.0%	891	0.5%
Total	150159	100.0%	12938	100.0%	163097	100.0%

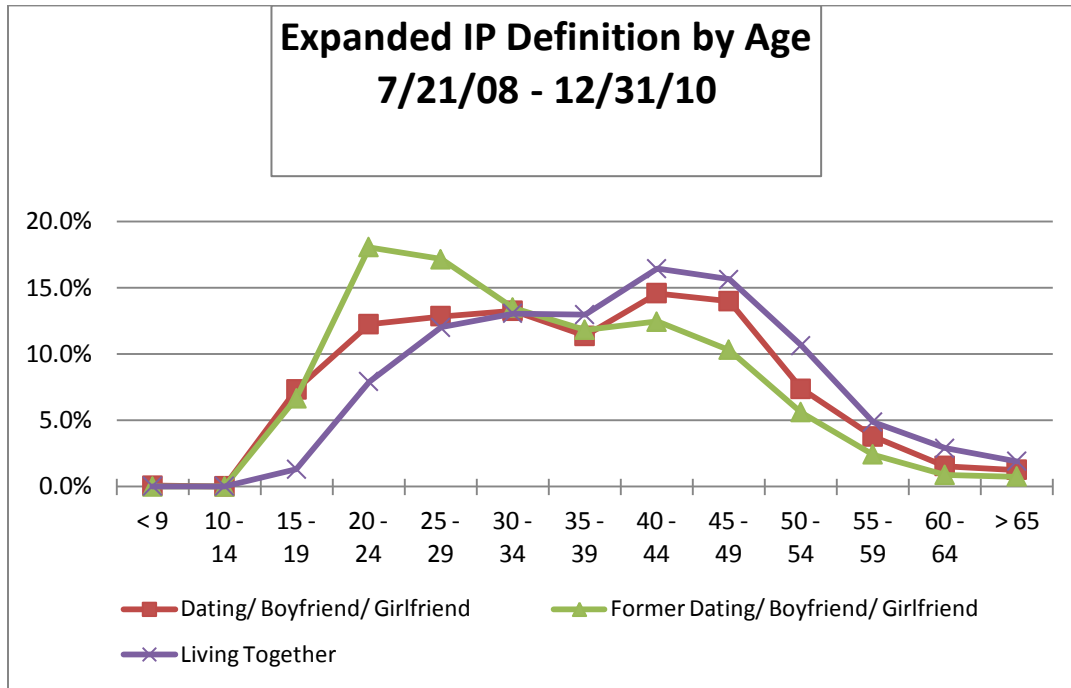
Note: 8 percentage points of the female petitioner, female respondent column originate from non-intimate partner relationships filed as Intimate-Other at the courts. Eg: babysitter, friend, neighbor.

Family Court Orders of Protection Granted -
Petitioner Gender by Respondent Gender

Statewide	IP Relationship				Total	
	Old Definition		Expanded Definition			
	1/2006 - 12/2010		7/25/2008 - 12/2010			
Female Petitioner Male Respondent	118743	82.9%	10960	78.5%	129703	82.5%
Male Petitioner Female Respondent	23246	16.2%	2110	15.1%	25356	16.1%
Female Petitioner Female Respondent	882	0.6%	591	4.2%	1473	0.9%
Male Petitioner Male Respondent	449	0.3%	299	2.1%	748	0.5%
Total	143320	100.0%	13960	100.0%	157280	100.0%
New York City	IP Relationship				Total	
	Old Definition		Expanded Definition			
	1/2006 - 12/2010		7/25/2008 - 12/2010			
Female Petitioner Male Respondent	36517	84.6%	4047	78.3%	40564	83.9%
Male Petitioner Female Respondent	6130	14.2%	745	14.4%	6875	14.2%
Female Petitioner Female Respondent	352	0.8%	221	4.3%	573	1.2%
Male Petitioner Male Respondent	181	0.4%	154	3.0%	335	0.7%
Total	43180	100.0%	5167	100.0%	48347	100.0%
Rest of State	IP Relationship				Total	
	Old Definition		Expanded Definition			
	1/2006 - 12/2010		7/25/2008 - 12/2010			
Female Petitioner Male Respondent	82226	82.1%	6913	78.6%	89139	81.8%
Male Petitioner Female Respondent	17116	17.1%	1365	15.5%	18481	17.0%
Female Petitioner Female Respondent	530	0.5%	370	4.2%	900	0.8%
Male Petitioner Male Respondent	268	0.3%	145	1.6%	413	0.4%
Total	100140	100.0%	8793	100.0%	108933	100.0%

APPENDIX 9

Orders of Protection Requested: Expanded Definition Relationship by Age



Petitioner Age	Expanded Definition IP Relationships												Total	
	Civil Union		Dating/ Boyfriend/ Girlfriend		Former Dating/ Boyfriend/ Girlfriend		Living Together		Intimate-Other		Registered Domestic Partner			
< 9	0	0.0%	2	0.1%	3	0.0%	1	0.1%	1	0.0%	0	0.0%	7	0.0%
10 - 14	0	0.0%	1	0.0%	3	0.0%	1	0.1%	4	0.1%	0	0.0%	9	0.0%
15 - 19	1	3.1%	182	7.4%	865	6.7%	26	1.3%	187	4.5%	0	0.0%	1261	5.8%
20 - 24	2	6.3%	304	12.3%	2344	18.1%	156	8.0%	512	12.3%	8	19.0%	3326	15.4%
25 - 29	3	9.4%	319	12.9%	2224	17.2%	236	12.0%	556	13.3%	8	19.0%	3346	15.5%
30 - 34	3	9.4%	329	13.3%	1753	13.5%	257	13.1%	536	12.9%	1	2.4%	2879	13.3%
35 - 39	2	6.3%	282	11.4%	1536	11.9%	255	13.0%	510	12.2%	6	14.3%	2591	12.0%
40 - 44	5	15.6%	362	14.6%	1614	12.5%	323	16.5%	576	13.8%	5	11.9%	2885	13.3%
45 - 49	5	15.6%	347	14.0%	1341	10.4%	307	15.6%	466	11.2%	10	23.8%	2476	11.4%
50 - 54	10	31.3%	183	7.4%	731	5.6%	209	10.7%	315	7.6%	2	4.8%	1450	6.7%
55 - 59	1	3.1%	94	3.8%	318	2.5%	96	4.9%	196	4.7%	2	4.8%	707	3.3%
60 - 64	0	0.0%	39	1.6%	117	0.9%	57	2.9%	128	3.1%	0	0.0%	341	1.6%
> 65	0	0.0%	32	1.3%	102	0.8%	38	1.9%	184	4.4%	0	0.0%	356	1.6%
Total	32	100.0%	2476	100.0%	12951	100.0%	1962	100.0%	4171	100.0%	42	100.0%	21634	100.0%

APPENDIX 10**Order of Protection Petitions****Intimate Partner Relationship Type by Age – Statewide**

Statewide	IP Relationship Type				Total	
	Old Definition (1/2006 - 12/2010)		Expanded Definition (7/25/2008 - 12/2010)			
<9	34	0.0%	7	0.0%	41	0.0%
10-14	27	0.0%	9	0.0%	36	0.0%
15-19	4769	2.3%	1261	5.8%	6030	2.6%
20-24	26210	12.5%	3326	15.4%	29536	12.8%
25-29	36680	17.5%	3346	15.5%	40026	17.3%
30-34	36091	17.2%	2879	13.3%	38970	16.9%
35-39	35443	16.9%	2591	12.0%	38034	16.5%
40-44	31105	14.9%	2885	13.3%	33990	14.7%
45-49	21127	10.1%	2476	11.4%	23603	10.2%
50-54	10084	4.8%	1450	6.7%	11534	5.0%
55-59	4274	2.0%	707	3.3%	4981	2.2%
60-64	1838	0.9%	341	1.6%	2179	0.9%
>65	1576	0.8%	356	1.6%	1932	0.8%
Total	209258	100.0%	21634	100.0%	230892	100.0%

Intimate Partner Relationship Type by Age – New York City

New York City	IP Relationship Type				Total	
	Old Definition 1/2006 - 12/2010		Expanded Definition 7/25/2008 - 12/2010			
	< 9	13	0.0%	2	0.0%	15
10 - 14	16	0.0%	5	0.1%	21	0.0%
15 - 19	1321	2.2%	416	4.7%	1737	2.5%
20 - 24	7614	12.7%	1331	15.1%	8945	13.0%
25 - 29	11141	18.6%	1360	15.5%	12501	18.2%
30 - 34	10868	18.1%	1219	13.9%	12087	17.6%
35 - 39	9759	16.3%	1111	12.6%	10870	15.8%
40 - 44	8223	13.7%	1194	13.6%	9417	13.7%
45 - 49	5494	9.2%	939	10.7%	6433	9.4%
50 - 54	2818	4.7%	569	6.5%	3387	4.9%
55 - 59	1364	2.3%	321	3.6%	1685	2.5%
60 - 64	624	1.0%	152	1.7%	776	1.1%
> 65	632	1.1%	176	2.0%	808	1.2%
Total	59887	100.0%	8795	100.0%	68682	100.0%

Intimate Partner Relationship Type by Age – Rest of State

Rest of State	IP Relationship Type				Total	
	Old Definition		Expanded Definition			
	1/2006 - 12/2010		7/25/2008 - 12/2010			
< 9	21	0.0%	5	0.0%	26	0.0%
10 - 14	11	0.0%	4	0.0%	15	0.0%
15 - 19	3448	2.3%	845	6.6%	4293	2.6%
20 - 24	18596	12.4%	1995	15.5%	20591	12.7%
25 - 29	25539	17.1%	1986	15.5%	27525	17.0%
30 - 34	25223	16.9%	1660	12.9%	26883	16.6%
35 - 39	25684	17.2%	1480	11.5%	27164	16.7%
40 - 44	22882	15.3%	1691	13.2%	24573	15.1%
45 - 49	15633	10.5%	1537	12.0%	17170	10.6%
50 - 54	7266	4.9%	881	6.9%	8147	5.0%
55 - 59	2910	1.9%	386	3.0%	3296	2.0%
60 - 64	1214	0.8%	189	1.5%	1403	0.9%
> 65	944	0.6%	180	1.4%	1124	0.7%
Total	149371	100.0%	12839	100.0%	162210	100.0%

Orders of Protection Granted**Intimate Partner Relationship Type by Age – Statewide**

Age	IP Relationship				Statewide Total	
	Old Definition 1/1/2006 – 12/31/2010		Expanded Definition 7/21/2008 – 12/31/2010			
	< 9	27	0.0%	3	0.0%	30
10 - 14	19	0.0%	5	0.0%	24	0.0%
15 - 19	3704	2.6%	865	6.2%	4569	2.9%
20 - 24	19356	13.6%	2352	17.0%	21708	13.9%
25 - 29	26054	18.3%	2291	16.5%	28345	18.1%
30 - 34	24747	17.4%	1886	13.6%	26633	17.0%
35 - 39	23693	16.6%	1637	11.8%	25330	16.2%
40 - 44	20252	14.2%	1805	13.0%	22057	14.1%
45 - 49	13418	9.4%	1527	11.0%	14945	9.6%
50 - 54	6367	4.5%	840	6.1%	7207	4.6%
55 - 59	2681	1.9%	370	2.7%	3051	2.0%
60 - 64	1141	0.8%	164	1.2%	1305	0.8%
> 65	1014	0.7%	127	0.9%	1141	0.7%
Total	142473	100.0%	13872	100.0%	156345	100.0%

Intimate Partner Relationship Type by Age – New York City

Age	IP Relationship				New York City	
	Old Definition		Expanded Definition		Total	
	1/1/2006 – 12/31/2010		7/21/2008 – 12/31/2010			
< 9	12	0.0%	1	0.0%	13	0.0%
10 - 14	12	0.0%	2	0.0%	14	0.0%
15 - 19	1083	2.5%	266	5.2%	1349	2.8%
20 - 24	5968	13.9%	892	17.4%	6860	14.3%
25 - 29	8253	19.3%	853	16.7%	9106	19.0%
30 - 34	7733	18.1%	724	14.1%	8457	17.6%
35 - 39	6972	16.3%	629	12.3%	7601	15.9%
40 - 44	5597	13.1%	668	13.0%	6265	13.1%
45 - 49	3647	8.5%	532	10.4%	4179	8.7%
50 - 54	1840	4.3%	304	5.9%	2144	4.5%
55 - 59	871	2.0%	151	2.9%	1022	2.1%
60 - 64	395	0.9%	54	1.1%	449	0.9%
> 65	418	1.0%	46	0.9%	464	1.0%
Total	42801	100.0%	5122	100.0%	47923	100.0%

Intimate Partner Relationship Type by Age – Rest of State

Age	IP Relationship				Rest of State	
	Old Definition		Expanded Definition		Total	
	1/1/2006 – 12/31/2010		7/21/2008 – 12/31/2010			
< 9	15	0.0%	2	0.0%	17	0.0%
10 - 14	7	0.0%	3	0.0%	10	0.0%
15 - 19	2621	2.6%	599	6.8%	3220	3.0%
20 - 24	13388	13.4%	1460	16.7%	14848	13.7%
25 - 29	17801	17.9%	1438	16.4%	19239	17.7%
30 - 34	17014	17.1%	1162	13.3%	18176	16.8%
35 - 39	16721	16.8%	1008	11.5%	17729	16.4%
40 - 44	14655	14.7%	1137	13.0%	15792	14.6%
45 - 49	9771	9.8%	995	11.4%	10766	9.9%
50 - 54	4527	4.5%	536	6.1%	5063	4.7%
55 - 59	1810	1.8%	219	2.5%	2029	1.9%
60 - 64	746	0.7%	110	1.3%	856	0.8%
> 65	596	0.6%	81	0.9%	677	0.6%
Total	99672	100.0%	8750	100.0%	108422	100.0%

APPENDIX 11 - Order of Protection Petitions by Relationship Category and Region

Statewide	Year						Total	
	2008		2009		2010			
Civil Union	13	0.4%	10	0.1%	9	0.1%	32	0.1%
Dating/Boyfriend/Girlfriend	354	12.2%	1019	11.3%	1121	11.3%	2494	11.4%
Former Dating/Boyfriend/Girlfriend	1394	48.2%	5322	58.8%	6327	64.0%	13043	59.8%
Living Together	323	11.2%	867	9.6%	789	8.0%	1979	9.1%
Intimate-Other	796	27.5%	1812	20.0%	1624	16.4%	4232	19.4%
Registered Domestic Partner	13	0.4%	16	0.2%	13	0.1%	42	0.2%
Total	2893	100.0%	9046	100.0%	9883	100.0%	21822	100.0%
New York City	Year						Total	
	2008		2009		2010			
Civil Union	1	0.1%	4	0.1%	3	0.1%	8	0.1%
Dating/Boyfriend/Girlfriend	141	11.0%	329	8.5%	305	8.2%	775	8.7%
Former Dating/Boyfriend/Girlfriend	549	42.9%	2086	53.7%	2182	58.8%	4817	54.2%
Living Together	137	10.7%	280	7.2%	253	6.8%	670	7.5%
Intimate-Other	447	34.9%	1181	30.4%	964	26.0%	2592	29.2%
Registered Domestic Partner	6	0.5%	8	0.2%	4	0.1%	18	0.2%
Total	1281	100.0%	3888	100.0%	3711	100.0%	8880	100.0%
Rest of State	Year						Total	
	2008		2009		2010			
Civil Union	12	0.7%	6	0.1%	6	0.1%	24	0.2%
Dating/Boyfriend/Girlfriend	213	13.2%	690	13.4%	816	13.2%	1719	13.3%
Former Dating/Boyfriend/Girlfriend	845	52.4%	3236	62.7%	4145	67.2%	8226	63.6%
Living Together	186	11.5%	587	11.4%	536	8.7%	1309	10.1%
Intimate-Other	349	21.7%	631	12.2%	660	10.7%	1640	12.7%
Registered Domestic Partner	7	0.4%	8	0.2%	9	0.1%	24	0.2%
Total	1612	100.0%	5158	100.0%	6172	100.0%	12942	100.0%

Orders of Protection Granted by Relationship Category and Region

Statewide	Year						Total	
	2008		2009		2010			
Civil Union	5	0.3%	6	0.1%	6	0.1%	17	0.1%
Dating/Boyfriend/Girlfriend	290	17.2%	808	14.0%	896	13.8%	1994	14.3%
Former Dating/Boyfriend/Girlfriend	1114	66.0%	4165	72.2%	4894	75.2%	10173	72.9%
Living Together	264	15.6%	687	11.9%	621	9.5%	1572	11.3%
Intimate-Other	5	0.3%	91	1.6%	78	1.2%	174	1.2%
Registered Domestic Partner	9	0.5%	11	0.2%	10	0.2%	30	0.2%
Total	1687	100.0%	5768	100.0%	6505	100.0%	13960	100.0%
New York City	Year						Total	
	2008		2009		2010			
Civil Union	0	0.0%	4	0.2%	1	0.0%	5	0.1%
Dating/Boyfriend/Girlfriend	120	17.6%	266	11.9%	255	11.3%	641	12.4%
Former Dating/Boyfriend/Girlfriend	451	66.0%	1681	75.4%	1761	78.1%	3893	75.3%
Living Together	108	15.8%	215	9.6%	186	8.2%	509	9.9%
Intimate-Other	1	0.1%	58	2.6%	48	2.1%	107	2.1%
Registered Domestic Partner	3	0.4%	5	0.2%	4	0.2%	12	0.2%
Total	683	100.0%	2229	100.0%	2255	100.0%	5167	100.0%
Rest of State	Year						Total	
	2008		2009		2010			
Civil Union	5	0.5%	2	0.1%	5	0.1%	12	0.1%
Dating/Boyfriend/Girlfriend	170	16.9%	542	15.3%	641	15.1%	1353	15.4%
Former Dating/Boyfriend/Girlfriend	663	66.0%	2484	70.2%	3133	73.7%	6280	71.4%
Living Together	156	15.5%	472	13.3%	435	10.2%	1063	12.1%
Intimate-Other	4	0.4%	33	0.9%	30	0.7%	67	0.8%
Registered Domestic Partner	6	0.6%	6	0.2%	6	0.1%	18	0.2%
Total	1004	100.0%	3539	100.0%	4250	100.0%	8793	100.0%

APPENDIX 12

TIPS FOR SEEKING AN ORDER OF PROTECTION FROM FAMILY COURT – FOR LGBTQ COMMUNITIES

New York State Family Court has opened access to many more victims of domestic violence seeking Orders of Protection, including Lesbian, Gay, Bisexual, Transgender and Queer people who are or have been abused by their intimate partner.

If you have experienced abuse by an intimate partner, you may be able to get for an Order of Protection in New York State Family Court.

For more information on Orders of Protection and/or what constitutes an intimate relationship:

http://www.avp.org/documents/AVPorderofprotectionfactsheet.FINAL_000.pdf

Or call one of the programs listed.

WHEN FILING FOR AN ORDER OF PROTECTION IN NEW YORK STATE FAMILY COURT, YOU DO NOT HAVE TO:

- Live with your abusive partner
- Have a marriage, civil union, or domestic partnership with your abusive partner
- Have children in common
- Have had sex with your abusive partner
- Be an adult over the age of 18
- Pay a fee to petition for an order of protection
- Have your abusive partner arrested
- Have documentation of abuse
- Disclose HIV status

YOU HAVE THE RIGHT TO:

- Bring a friend or advocate to court
- Ask if there is a domestic violence program advocate available
- Hire an attorney (in some cases, an attorney can be appointed for you)
- Petition for an Order of Protection in Family Court even if you have already received one from Criminal Court

- **WHEN GOING TO FAMILY COURT, YOU MAY BE ASKED TO:**
- Answer questions about your relationship with your abusive partner
- Fill out forms requiring your legal name
- Pass through metal detectors and/or check-in cameras, computers, and other electronics with security

- **WHEN GOING TO FAMILY COURT, IT MAY BE HELPFUL TO:**
- Make arrangements for child care – In some Family Courts, child care is available, but not for all children
- Take off from work for several hours, up to a whole day—some Family Courts have night court hours on select days
- Bring photo ID and copies of police reports, hospital records, letters from advocates, previous Orders of Protection, Orders of Custody, etc.

If you have questions or need help with filing and serving Orders of Protection, accessing Family Court, finding an advocate, or staying safe, please contact your local LGBTQ-friendly Domestic Violence program. Information is available on the next page.

*This publication is a product of the **New York State Lesbian, Gay, Bisexual, Transgender and Queer (LGBTQ) Domestic Violence Network**. The Network works to improve responses to and prevent domestic violence impacting LGBTQ people and communities.*

List of Member Organizations
NYS LGBTQ DV Network is administered by:

The NYC Anti-Violence Project
240 West 35th Street, Suite 200
New York, NY 10001
(212) 714-1184 (administrative)
(212) 714-1141 (24-hour bilingual hotline)
www.avp.org

Yejin Lee
Local and Statewide Programs Associate
(212) 714-1184 x 29
ylee@avp.org

ALBANY

Empire Justice Center
(518) 462-6687

Equinox
(518) 434-6135
(518) 432-7865 (Domestic Violence Hotline)

In Our Own Voices (518) 432-4188
(518) 432-4341 (DV Support Line)

NYS Coalition Against Domestic Violence
(518) 482-5465

ERIE

MOCHA Project
(716) 852-1142

Child & Family Services
Haven House (716) 884-6000 (Hotline)

LIVINGSTON

Chances and Changes
(585) 658-2660 (Domestic Violence Hotline)

MONROE

Alternatives for Battered Women
(585) 232-5200 (585) 232-7353 (hotline)

Gay Alliance of the Genesee Valley
(585) 244-8640

Empire Justice Center
(585) 454-4060

NASSAU

Pride for Youth (PFY)
(516) 826-0244

NEW YORK CITY

Day One (Serves people up to 24 years of age)
(212) 566-8120 1-800-214-4150 (Helpline)

The New York City Anti-Violence Project
(212) 714-1184 (212) 714-1141 (24-hour hotline)

The Safe Homes Project
(718) 499-2151 (Hotline)

Safe Horizon
(212) 577-3891

Sanctuary for Families
(212) 349-6009

ONONDAGA

Vera House
(315) 425-0818
DV Hotline: (315) 468-3260
SA Hotline: (315) 422-7273

Syracuse Area Domestic Violence & Sexual Violence Coalition
C/O Vera House
(315) 425-0818

PUTNAM

Putnam Northern Westchester Women's Resource Center
(845) 628-9284 (845)
628-2166 (Hotline)

ROCKLAND

Rockland Family Shelter
(845) 634-3391 (845)
634-3344 (Hotline)

TIOGA

A New Hope Center
(607) 687-6887 (607)
687-6866 (Hotline)

TOMPKINS

Advocacy Center
(607) 277-3203
(607) 277-5000 (Hotline)

WESTCHESTER

My Sister's Place

(914) 683-1333

1-800-298-7233 (Hotline)

Victim Assistance Services

(914) 345-3113

(914) 345-9111 (Hotline)

1-800-726-4041 (Hotline)

NEW JERSEY

YMCA of Eastern Union County

(908) 355-1500

APPENDIX 13



FACT SHEET: LGBTQ PEOPLE & ORDERS OF PROTECTION IN NEW YORK STATE FAMILY COURT

What is a Family Court Order of Protection?

An Order of Protection is a court order signed by a Judge that requires your partner or ex-partner (whether it's your boyfriend, girlfriend, husband, wife, partner, buddy or any other way you define your intimate relationships) to stop threatening, harassing, assaulting, stalking, repeatedly contacting, or menacing you.

Who can get a Family Court Order of Protection?

As of July 22, 2008, Family Court is open to many more victims of domestic violence seeking Orders of Protection, including people who are in or have had an "intimate relationship," even if you have never had sex with your partner.

This includes people who are:

- dating or used to date
- living together or used to live together
- lesbian, gay, bisexual, transgender & queer (LGBTQ)
- youth

People who are married or divorced, related by blood or marriage or who have a child in common can also get an Order of Protection.

You do not have to live together to get an order of protection.

How will the Court decide if my relationship is an "intimate relationship"?

The court will consider several factors in deciding if your relationship is an "intimate relationship," including:

- The nature or type of relationship you have
- How often you saw or spoke to each other (including texting and email)
- The length of the relationship

You do not have to have had sex with your partner to be in an intimate relationship.

The court will NOT consider a "casual acquaintance" (for example, friends or people who work together who are not dating).

What should I know about filing for a Family Court Order of Protection?

All people in an intimate relationship needing an Order of Protection can file in Family Court and ask a judge to decide if they are eligible for an Order.

You have the right to bring an advocate or friend to court with you. You do not need an attorney, although the court may provide you with one if you qualify.

You do not have to call the police or have your partner arrested to go to Family Court to get an order of protection. However, you can go to Family Court even if you have contacted the police and even if you have gone to Criminal Court.

If you would like to talk more about your options or need to talk about your relationship, you can contact:

**New York City Anti-Violence Project
24-hour bilingual hotline: 212.714.1141**

**I'm anti
violence
and pro
community.**

