EQUAL *Justice* EQUAL *Treatment* EQUAL *Opportunity*

Appraising Change and Progress a Decade After the Report of the New York Task Force on Women in the Courts

A Report by the New York Judicial Committee on Women in the Courts
May 1996

Conditions for Women Litigants

Perhaps the most devastating indictments in the Task Force Report were accounts of women who come to the courts seeking justice, redress for grievances, and even physical safety, and found the responses of the system infected by bias. When the courts disappoint litigants in their expectations of fairness, an immediate and forceful response is demanded, and, in the years since the Task Force reported, the court system, with help from the New York State Legislature, has made substantial strides towards a legal system that responds more equitably to women litigants.

Victims of Violence

Domestic Violence

As much as any single legal issue in the past decade, domestic violence has caught the attention of the public and galvanized public officials to act decisively for the benefit of women, who, overwhelmingly, are its victims.

In the first years following the Task Force Report, sustained interest brought about some change. Writing in 1992, two investigators who looked in depth at the courts' treatment of victims of domestic violence since the Task Force Report noted significant progress, although they also remarked that problems remained.[15] One source of movement was the New York Legislature, which, in 1988, adopted two of the Task Force's recommendations for statutory reforms. In that year, a bill was passed outlawing the damaging practice of issuing "mutual" orders of protection–orders to both parties when only one, usually the woman, had filed a petition and met the burden of demonstrating the need for protection against a violent partner.[16] Another product of the 1988 legislative session was an amendment to the Criminal Procedure Law allowing judges to condition adjournments in contemplation of dismissal on defendants attending education programs on family violence and spousal abuse.[17]

Significant reforms also changed the mechanisms available to women who sought to bring their own criminal cases against their assailants. In 1989 court administrators appointed a task force on civilian-initiated complaints, in large measure to respond to those victims of domestic violence who, because the police had not made an arrest, had no choice but to proceed on their own.[18] Indeed theirs were some of the gravest and most violent of the cases to reach the New York City Criminal Courts through an archaic system that asked complainants to trudge across

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[15] Sarah Eaton and Ariella Hyman, "The Domestic Violence Component of the New York Task Force Report on Women in the Courts: An Evaluation and Assessment of New York City Courts," 19 *Fordham Urban L. J.* 391, 519 (1992).

[16] Laws of 1988, Ch.706.

[17] Laws of 1988, Ch. 39.

[18] Unified Court System, *Report of the Task Force on the Civilian-Initiated Complaint Process in the New York City Criminal Court: Findings and Recommendations*, June 1989.

the city, from office to office, in a scenario that, at its worst, compelled complainants to make ten separate stops and spend up to two days before their cases reached a judge.[19] Among the changes recommended and adopted were decentralizing operations to make services more accessible and transferring all prosecutorial functions to district attorneys so that no victim of a violent crime would have to proceed alone. As a result of these reforms, currently, under the auspices of the Court Dispute Referral Center, each borough except Staten Island has an office open to citizens with criminal complaints. In 1995, Court Dispute Referral Center offices provided services to between 500 and 1000 victims of domestic violence each month. When referrals to district attorneys were ruled out because cases failed to meet prosecutorial guidelines, victims were offered counseling and advice so that arrests and prosecutions would be possible if the violence continued.

The Family Protection and Domestic Violence Intervention Act of 1994[20] ushered in a new era. The Act, passed after years of advocacy by, among others, court officials who had put changes in laws protecting domestic violence victims at the top of their legislative agenda, was a package of comprehensive reforms. A strong statement of legislative findings introduced the Act and defined its purpose. These findings boldly declared that "there are few more prevalent or more serious problems confronting the families and households of New York than domestic violence" and asserted that "domestic violence ... warrants stronger intervention than is presently authorized under New York's laws."[21]

The Act's reach was impressive. In coordinated provisions, it strengthened the courts, the police, and the executive branch in their efforts to respond effectively to domestic violence. Under the revised laws, victims no longer had to choose between civil and criminal remedies, but were given leave to pursue their cases simultaneously in Criminal and Family Courts. Mandatory arrests were made the norm through provisions requiring police to make arrests, without attempting to mediate, in cases of felonies and violations of orders of protection. The Act expanded the list of crimes classified as family offenses and thus subject to Family Court as well as Criminal Court jurisdiction, and it gave judges authority to impose stiffer sanctions, including fines. Victims were provided with the protection of a bill of rights, which included, for example, the right to a police escort to a safe place and help in retrieving belongings. Officials, including law enforcement authorities, prosecutors, the courts, and hospitals, were directed to tell victims about their rights. The legislation also made provisions for a statewide, computerized registry for orders of protection and warrants, a uniform domestic violence incident report form for police, and training for judges and law enforcement officials.

In the wake of attention generated by the legislation, the court system moved quickly to consolidate progress. Education came first. Judges at the judicial seminars in 1994 heard panels discussing the new Act and saw a video bringing home the psychological realities of women leaving abusive relationships. New judges too were introduced to the court system's commitment to serving these women.

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[19] *Id.* at 24-25.

[20] Laws of 1994, Chs. 222 and 224.

[21] Laws of 1994, Ch. 222, §1.

Convinced additional institutional effort was necessary, Chief Judge Judith S. Kaye created the Family Violence Task Force composed of judges from across the state in all courts in which families and children appear. Presiding Justice Anthony V. Cardona of the Appellate Division, Third Department, and Justice Sondra Miller of the Appellate Division, Second Department, were appointed co-chairs. The task force's first item of business was a series of roundtable meetings, held in each of the state's judicial districts, to bring to judges the latest ideas about domestic violence, to provide full explanations of the new law, and to give judges a chance to discuss their own courtroom experiences. Judges left the training with bench books produced by the task force, and reports on each session were sent to the Chief Judge. With this first phase completed, the task force turned its attention to other projects. Among them was finding forums to spread the word about changes in the legal treatment of domestic violence to nonjudicial personnel and, in recent months, the task force has supplied speakers for training programs for Family Court Hearing Examiners, Town and Village Justices, and law guardians.

But more than the Task Force on Family Violence was necessary. The new legislation directed the courts to take specific measures. To meet these statutory mandates with maximum speed and efficiency, the Chief Judge appointed the Family Protection Legislation Implementation Group. Convened in August 1994, the Group's most urgent business was putting in place the computerized registry of orders of protection and warrants under the tight deadlines imposed by the legislation. Overcoming enormous technological problems, the Implementation Group had the system up and running by October 1, 1995, and, six months later, the registry had information on approximately 60,000 orders of protection. Also on its agenda were finalizing rules for record sharing among courts, making recommendations on record retention and access to the computerized registry, and creating new statewide forms for orders of protection, all of which have been completed.

Legislation to clarify and expand portions of the Family Protection and Domestic Violence Act was included in the courts' 1995 legislative program, and several bills were passed solidifying gains of the previous year. Incorporating a sophisticated understanding of the dynamics of domestic violence was a bill passed to expand still further the definitions of family offenses to include the telephone and mail harassment covered by the crime of aggravated harassment in the second degree.[22] Another measure authorized the revision of the terms in orders of protection, replacing vague, outdated language with clear, concrete, and enforceable directions.[23] Yet another provision added to the 1988 legislation outlawing mutual orders of protection issued without procedural safeguards by extending its reach to matrimonial orders and requiring judges to make findings of fact.[24] Together these reforms have changed forever the landscape of legal alternatives open to women who find themselves trying to leave violent relationships and make new lives free of violence directed at them by those who have been their intimates.

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[22] Laws of 1995, Ch. 440.

[23] Laws of 1995, Ch. 438.

[24] Laws of 1995, Ch. 538.