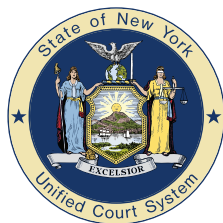


2019 Report of the Chief Administrator of the Courts on the

# STATUS *of* FAIR TREATMENT STANDARDS *for* CRIME VICTIMS

Pursuant to Chapter 367 of the Laws of 2015



NEW YORK STATE UNIFIED COURT SYSTEM



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## Preface

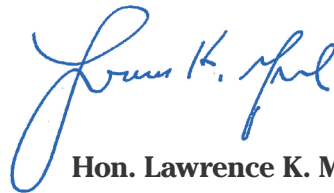


To the Governor and the Legislature of the State of New York:

I am pleased to submit this report on the status of fair treatment standards for crime victims in the New York State Courts. Section 3 of Chapter 367 of the Laws of 2015 directs that:

“[t]he chief administrator of the unified court system shall review court practices, procedures, services, regulations and laws to determine the adequacy and appropriateness of its services with respect to crime victims, including victims with special needs, particularly the elderly, disabled or victims of child abuse, domestic violence, sex trafficking or sex-related offenses...After the review...the chief administrator of the unified court system shall submit a report to the governor and the legislature, setting forth the findings of the review, including a description of the services provided by the components of the unified court system and recommendations for changes in its procedures, services, regulations and laws to improve its services to crime victims and to establish and implement fair treatment standards for crime victims.”

Pursuant thereto, this Report provides the required findings of the review, recommendations for changes, and information regarding the status of fair treatment standards for crime victims in the Unified Court System.

A handwritten signature in blue ink, appearing to read "Lawrence K. Marks".

**Hon. Lawrence K. Marks**

Chief Administrative Judge of the State of New York



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## Introduction

The Unified Court System (UCS) is at the forefront in providing fair treatment to crime victims and other vulnerable New Yorkers. The cornerstone of this commitment is Chief Judge Janet DiFiore's Excellence Initiative, under which the fair treatment of everyone who enters a New York State courthouse remains one of the UCS' foremost priorities. In addition to ensuring that crime victims and other vulnerable New Yorkers are treated with dignity and respect, the UCS is committed to ensuring that UCS facilities throughout the State are accessible to all crime victims and other court users.

This report reviews the programs and policies the UCS has developed to ensure the fair treatment of crime victims and all others who interact with the courts.

### Fair Treatment Standards for Crime Victims in the Courts

Executive Law § 645 directs the chief administrator of the courts to "promulgate standards for the treatment of innocent victims of crime by the unified court system." Executive Law § 648(1) additionally directs the Chief Administrator of the Unified Court System to "review court practices, procedures, services, regulations and laws to determine the adequacy and appropriateness of its services with respect to crime victims, including victims with special needs, particularly the elderly, disabled or victims of child abuse, domestic violence, sex trafficking or sex-related offenses." In accordance with the requirements of Executive Law § 648(2), this report sets "forth the findings of the review, including a description of the services provided by the components of the unified court system and recommendations for changes in its procedures, services, regulations and laws to improve its services to crime victims and to establish and implement fair treatment standards for crime victims."

## 1. Elder Abuse Victims

The population of older New Yorkers is on the rise. According to a 2011 study funded by New York's Office of Children and Family Services,<sup>1</sup> it is estimated that one in four New Yorkers will be 60 years or older by 2030. Unfortunately, as the number of older New Yorkers has increased so has the prevalence of elder abuse. The study also found that for every case reported to Adult Protective Services or other authorities, more than 23.5 cases went unreported. Issues faced by elder abuse victims are seen every day in our Housing, Family, Criminal, Supreme, and Surrogate's Courts. Elder abuse is often the underlying cause of an older adult's housing court issues, yet the abuse can be difficult to detect. An older adult may face eviction for violating a term of tenancy because of a drug addicted adult grandchild needing a place to live or an adult child squatting in a parent's home. These older adults may find themselves repeatedly facing issues caused by unauthorized tenants that are disruptive and violate the term of tenancy. The UCS has responded to this growing crisis with increased attention to the needs of elder abuse victims by improving court operations to meet their needs. Resources have been directed to educating judges and court staff throughout the state on how to detect elder abuse and refer victims to available services.

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1. *Under the Radar: New York State Elder Abuse Prevalence Study* (2011), available at <https://ocfs.ny.gov/main/psa/problem.asp>

## Elder Abuse Victims

The UCS's **Committee on Elder Justice** was created to ensure that New York courts are aware and responsive to the needs of older adults. Chaired by the Hon. Deborah A. Kaplan, Administrative Judge for Civil Matters in New York County, the Committee is comprised of UCS representatives, non-profit service providers, government agencies, academics, medical professionals, law enforcement, prosecutors, civil legal service providers, and the private bar.

One of the Committee's primary tasks is to raise awareness of elder abuse and the court system's programs, policies and protocols for cases involving older litigants in both civil and criminal matters. Through the leadership of the Committee and support from the UCS' **Office of Policy and Planning**, the UCS conducted a series of statewide elder abuse trainings and has published materials and a bench guide for judges on detecting elder abuse. In 2017, a statewide symposium on financial exploitation of older adults was held at the **New York State Judicial Institute (JI)**, the UCS' statewide education, training and research facility. The JI provides continuing legal education to judges, court attorneys, support magistrates and court-related personnel. In accordance with the Rules of the Chief Administrator (Part 129.4), victim assistance education and training are provided to judicial and non-judicial personnel of the UCS so that crime victims may be promptly and properly assisted. The many programs offered by the JI cover issues relating to domestic violence, elder justice, restitution, trauma, procedural justice,<sup>2</sup> Family Court practices, and much more. The courses are offered in a variety of accessible formats, including live, webcast, and pre-recorded. The JI's most recent elder abuse symposium featured national speakers with expertise from political, medical and legal perspectives.

The UCS provides education for the public as well. For example, when New Yorkers come to court on a matter of personal importance, they often turn to their faith leaders for advice and support. To enhance communication between the courts and members of the clergy, the **Office for Justice Initiatives (OJI)** and the **Office of Public Affairs** have organized **Faith Leaders Days**. Presently, OJI oversees this initiative within New York City; the Office of Public Affairs organizes the events outside of New York City. The goal is to provide faith leaders with information on what resources and services are available to their community members and how they can access them. A typical Faith Leaders Day starts by providing participants with a basic understanding of the family, criminal, juvenile, and civil courts. Some of the common issues for litigants who face court proceedings include housing, domestic violence, divorce, elder law and criminal matters, and judges offer presentations on these issues. Recognizing that many of the New Yorkers who come to their faith leaders for advice are seniors, topics of discussion also include reverse mortgages, trusts, estates, and guardianship proceedings. Another important aspect is the exchange between judges and clergy members, which not only informs judges on the multiple dynamics that can cause individuals to find themselves in need of court intervention but allows faith leaders to provide the court with important information on the community.

Extending the court's commitment to New York's senior population, the Offices of Justice Initiatives, Policy and Planning, and Public Affairs, and the Judicial Committee on Elder Justice, will begin hosting **Senior Law Days** this spring. The goal of Senior Law Day is to offer seniors an introduction to the resources and services of the court system and community partners to assist them in avoiding or responding to legal problems. Topics will include prevention of fraud and other elder abuse, health care and advance directives, housing, foreclosure, Medicaid eligibility, wills, powers of attorney, guardianships, and availability of legal representation. Senior Law Day will bring together judges and court personnel, practicing attorneys, service providers, adult protective services agencies,

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2. Procedural justice is fairness in the processes that resolve disputes and allocate resources.

## Elder Abuse Victims

and experts on fraud and other elder abuse. Collectively they will provide information on court resources including Help Centers, assistance with language interpretation, assistance with hearing and visual impairments, and access for individuals with physical limitations.

In addition to Faith Leaders Days and Senior Law Days, several UCS programs are specifically focused to serve vulnerable older adults who appear in Housing Court. One involves specially trained **guardians-ad-litem** (GALs) who appear with tenants with cognitive limitations who may not be able to advocate on their own behalf. Appointed by Housing Court judges, **Elder Abuse Specialists** are specially selected and trained to advocate for older adults that are the victims of abuse, and connect older adults to services and resources.

The UCS' Office for Justice Initiatives, in conjunction with the Harry and Jeanette Weinberg Center for Elder Justice at the Hebrew Home in Riverdale, created a guidebook, "Elder Abuse and Housing Court FAQ," to help GAL's and Elder Abuse Specialists navigate the needs of elder abuse victims through Housing Court. Another NYC Housing Court program designed to assist older adults vulnerable to exploitation is the **Assigned Counsel Project** (ACP). Overseen by Deputy Chief Administrative Judge Edwina G. Mendelson, ACP is a partnership between New York City Housing Court and New York City's Department of Aging. ACP attorneys partner with social workers to assist older adults facing eviction. Like Elder Abuse Specialists, ACP attorneys and social workers address financial exploitation, neglect and abuse of older adults.

In addition to addressing elder abuse matters, OJI has several programs designed to offer a wide variety of services for unrepresented litigants, including: Housing and Consumer Debt Volunteer Lawyer for the Day; and Housing, Civil Court, and Family Court Help Centers. These programs serve some of New York's most vulnerable, including the elderly, victims of domestic violence and elder abuse, and individuals with disabilities. Volunteer attorneys provide limited scope representation for unrepresented litigants in nonpayment cases in Kings County Housing Court and New York City Housing Authority cases in the Bronx County Housing Court. Limited scope representation is available for unrepresented consumer debtors in Civil Court in New York, Kings, Bronx, and Queens Counties. In both programs, the representation begins and ends the same day. Similar programs are available for unrepresented litigants in many courthouses statewide.

Beyond the services offered in New York City Housing Court, there are a myriad of UCS Help Centers and legal assistance clinics that regularly serve victims of elder abuse. One such program is the grant-funded **Elder Justice Navigator Program**, launched in Western New York through Chautauqua County and the Center for Elder Law & Justice, which provides court navigation assistance to older adults who are the victims of maltreatment. The program directly addresses the challenges faced by victims of elder abuse in the justice system by creating a method for judges and court staff to flag cases and connect victims with elder abuse attorneys. Access to justice for elder abuse victims can be significantly hindered when an older adult has limited access to transportation or physical needs that require special accommodation. The UCS has worked to alleviate these practical burdens for older adults. For instance, in Jefferson County, a wheelchair bound victim of elder abuse who needed an order of protection appeared electronically by SKYPE through the UCS's Advocate Assisted Family Offense Petition Program.<sup>3</sup>

To ensure full compliance with the Americans with Disabilities Act (ADA), the UCS has a statewide program to address disability access issues. A Statewide Coordinator oversees ADA compliance and every courthouse has at least one designated ADA liaison. Information for each courthouse

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3. See Section IV, *infra*.

and contact information for the ADA liaison is featured on the UCS website at [www.nycourts.gov/accessibility](http://www.nycourts.gov/accessibility). This website also includes an ADA Guide which teaches court personnel to be sensitive to the needs of older adults in court, such as calendaring a case around the availability of caretakers and drivers, and the physical needs of older witnesses who may require breaks for hydration or medication. Contact information for each ADA liaison is also posted prominently within UCS courthouses and facilities.

To further enhance courthouse access, significant court upgrades have been made over the past two years with the establishment of twenty-seven modernized courtrooms throughout the State. These courtrooms have been upgraded with new technology and facility enhancements that dramatically improve accessibility. Older adults and others with disability access issues directly benefit from these improvements. Electrical wires and cables have been moved to reduce the risk of tripping, and high definition monitors have been installed that allow presenters to zoom in on text and images for better viewing. This is helpful to individuals who are visually impaired. Similarly, assistive listening devices are available for individuals who are hearing impaired. Over the next several years, the UCS is planning to deploy a large-scale modernization program that will further expand these beneficial courtroom enhancements. With electronic evidence displays, microphones and improved sound systems, elder abuse victims who appear in these courtrooms will have improved access to information, allowing them to engage in proceedings more effectively.

## 2. Disabled Crime Victims

In 2017, the UCS announced the formation of an **Advisory Committee on Access for People with Disabilities** to develop an action plan for improving court access for persons with visual, hearing, communication, mobility, cognitive, and other disabilities. Chaired by the Hon. Rosalyn H. Richter of the Appellate Division, First Department, this advisory committee is examining a broad spectrum of issues, including the procedures for requesting accommodations under the ADA, the availability of sign language interpreters, the quality of remote video interpreting services for the deaf and hard of hearing, online court programs and services for persons with hearing impairments, and barriers faced by jurors who have disabilities. The advisory committee is expected to submit recommendations to Chief Judge DiFiore for implementation.

Currently, to minimize the deleterious impact of criminal proceedings on a disabled crime victim, every effort is made to limit the number of appearances required of disabled individuals in court and to emphasize the prompt resolution of all criminal prosecutions. In the event a disabled victim requires special accommodations for their appearance in court, those are addressed on a case by case basis in consultation with the UCS Department of Public Safety and local District Attorney's office.

As set forth above, the UCS has created a coordinated system for compliance with the ADA to assist individuals with disabilities. ADA liaisons in courthouses throughout the state are trained and available to process accommodation requests. Additionally, most UCS facilities have handicapped entrances to allow those with physical limitations to access or bypass long lines at security checkpoints.

The **Department of Public Safety (DPS)**, under the direction of Chief Michael Magliano, is charged with overseeing court security services to all courts throughout the State, ensuring that each of those courts operates in a safe and secure manner. DPS is prepared to handle the full spectrum of possible emergencies. As the liaison between the court system, law enforcement, and other public safety agencies, DPS is critical to the operation of the court system. DPS also oversees the **NYS Court**

## Disabled Crime Victims

**Officer Academy** (Academy).<sup>4</sup> Led by Chief Joseph Baccellieri, Jr., the Academy has trained thousands of court officers and peace officers and supports their ability to protect the life, property, and dignity of all who enter UCS facilities. The Academy has 22 full time court officers who are certified as police instructors by the New York State Division of Criminal Justice Services. Recruits (court officer trainees) are required to attend four months of basic training built on the basic tenet of treating people with compassion and dignity. Trainees are instructed in sensitivity and communication techniques when addressing individuals with special needs, including crime victims, and are provided with detailed information about the UCS's Antidiscrimination Policy and the ADA.

In addition to the training programs for new court officer trainees, the Academy oversees statewide training programs for in-service court officers on an ongoing basis. Court officers are trained to expedite the security process for any individual with special needs. Service animals are permitted to accompany disabled court users, victims, and witnesses. Court personnel are trained to aid anyone with concerns and will respond to any ADA issues presented by disabled individuals while ensuring that they are treated with dignity, courtesy, and respect. Disabled individuals are encouraged to contact the ADA liaison in each county to assist with accommodations.

### **UCS Services for Persons with Limited English Proficiency**

Through the **Office of Language Access** (OLA), the UCS provides interpretation services in 124 languages, employing more than 300 staff interpreters and hundreds more on a per diem basis to meet the numerous language needs of court users. OLA also develops and implements policies and best practices to ensure persons with Limited English Proficiency or hearing impairments have equal access to the courts and court services so they may effectively participate in all aspects of the legal process. OLA is responsible for ensuring that prompt, accurate, and consistent foreign and sign language interpretation and translation services are provided for such court users free of charge, regardless of the type of case or ability to communicate.

Court interpreters help facilitate communication between the judge, court staff, attorneys, service providers, and the LEP or hearing-impaired individual. Courts in New York are able to provide interpretation in over 100 different languages and American Sign Language, all at no cost to the litigants. OLA can also provide multiple translators for an individual who communicates in sign language. These court interpreters receive training on specific topics such as domestic violence, vicarious trauma, and cultural sensitivity. Particularly in criminal cases and those involving domestic violence, interpreters play a key role in ensuring that victims can understand and actively participate in the proceedings.

### **Mentally Disabled Crime Victims**

Victims of crime, including those with mental disabilities, routinely appear in criminal courts throughout the state as witnesses or to make victim impact statements, and UCS judges and court personnel received specialized training to assist them. These victims are permitted to have an advocate, guardian, or family member remain with them throughout all court proceedings. Arrangements can also be made for a supportive individual or animal to remain with the victim in a secure area if appropriate.

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4. In December, 2018, Chief Judge Janet DiFiore and Chief Administrative Judge Lawrence K. Marks inaugurated a state-of-the-art court officer training facility in Crown Heights, Brooklyn dedicated to the memories of three New York State Court Officers who perished in the 9/11 World Trade Center rescue efforts: Captain William H. Thompson, Sergeant Thomas Jurgens and Sergeant Mitchel Wallace.



## Disabled Crime Victims

A parent of or person legally responsible for a mentally disabled victim is permitted to request an Order of Protection on behalf of the victim. Offsite court appearances with the judge and court reporter can be arranged if the victim is in a hospital or facility. In Family Court, a mentally disabled victim may appear with a relative, friend, or advocate of their choice. Extra care is taken by judges and court staff to ensure that individuals with a mental disability and their guardians understand court proceedings. As with victims of elder abuse, guardians-ad-litem are routinely appointed in Housing Court to assist individuals with mental disabilities who would otherwise be unable to fully participate in resolving their case. Vulnerable litigants like those with mental disabilities are more likely to forego viable defenses, agree to unfavorable terms, fail to explore all settlement options, or may not follow through with the terms of an agreement, thereby increasing their risk for eviction. Litigants with mental disabilities greatly benefit from the appointment of a GAL, who can intercede and resolve cases on their behalf. GALs can identify when a litigant is being taken advantage of due to their impairment or disability and connect that person to appropriate support or other services.

In partnership with **CUNY Law School's Community Legal Resource Network**, the Office of Justice Initiatives conducts a **Volunteer Lawyer for the Day (VLFD)** program, which provides free, unbundled, or limited scope representation to litigants in Housing Court nonpayment proceedings who do not receive Section 8 subsidies or reside in certain zip codes or rent regulated apartments. This service is available for all unrepresented litigants regardless of income. It has allowed vulnerable victims of financial exploitation, including those with mental illness and other disabilities, to have access to legal representation. With over 1,600 volunteer hours served, VLFD has provided legal assistance to more than 800 unrepresented litigants.

Mental Hygiene Law Article 81 guardianship proceedings are commenced to determine whether a person is incapacitated and in need of a personal guardian, property guardian, or both. Agencies like Adult Protective Services may initiate such proceedings when it becomes aware of an adult who is unable to manage their own financial or domestic affairs. Guardianship proceedings may also be initiated by friends, family members, hospitals, nursing homes, or any other interested party. Guardians are appointed pursuant to Part 36 of the Rules of the Chief Judge, which applies to a wide range of other appointments as well. During the pendency of a proceeding or guardianship, if the court becomes aware that a crime has been committed against an incapacitated person, such as abuse or financial exploitation, the matter may be referred to the appropriate law enforcement agency. The court may also utilize its injunctive powers to remove the person from a home, prevent contact with the exploiters, and stop financial transactions. The UCS regularly offers education for judges, non-judicial court employees, guardians, and court examiners who work in this important area.

### **UCS Services for Disabled Court Users and Defendants**

Established in 2014, the **Court Navigator Program** provides non-legal support and assistance to unrepresented litigants in nonpayment proceedings in Housing Court. While UCS judges and court staff may not provide legal advice, UCS staff trained as navigators can help litigants organize paperwork, navigate Do-it-Yourself<sup>5</sup> computers, complete court forms, and access interpreters. In 2018, the Office for Justice Initiatives added a training component to help Navigators identify and

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5. Do-it-Yourself computer programs are for court users who do not have a lawyer and for legal service and pro bono attorneys helping clients who cannot afford lawyers. These program asks a series of questions and uses those answers to generate a form for the user's case or an information sheet to assist that person in court. Do-it-Yourself programs are available for many types of proceedings, including uncontested divorce cases in Supreme Court, nonpayment and holdover petitions in Housing Court, and custody petitions in Family Court.

assist litigants with special needs, including those with “invisible” disabilities.<sup>6</sup> Navigators can identify litigants in need of special assistance to court officers who may grant expedited security line access and provide other assistance.

The Jewish Association Serving the Aging’s (JASA) Homebound Navigator Program, which is funded by the UCS, assists unrepresented litigants who are homebound. JASA’s social workers and social work students travel to the homes of court identified litigants to assess their needs and can arrange for them to appear via SKYPE. In addition, JASA’s Navigators have arranged transportation for and escorted litigants to court.

There are currently 28 **Mental Health Courts** (MHCs) in New York State. MHCs are specialized parts that work in partnership with community stakeholders to adjudicate criminal defendants who are living with mental illnesses. MHCs are the result of a collaborative effort between the UCS, the District Attorney’s office, community organizations, and mental health service providers. Each MHC has a dedicated judge, specially trained staff, and resource coordinator. Addressing both the treatment needs of defendants living with mental illness and public safety concerns, MHCs link these defendants to long-term treatment as an alternative to incarceration. In accordance with Part 129.4 of the Rules of the Chief Administrator, the Judicial Institute and the Office of Policy and Planning provide ongoing training to MHC staff.

### 3. Child Victims

#### Policy, Training and Court Improvement Projects

Since the creation of the New York State **Permanent Commission on Justice for Children** (the Commission) in 1998, the UCS has developed a comprehensive plan to serve the needs of child victims. Today the Commission is chaired by the Hon. Karen Peters, former Presiding Justice of the Appellate Division, Third Judicial Department. The Commission’s primary mission is to improve the lives of children who intersect with the court system.

One of the Commission’s noteworthy early achievements was the establishment of a statewide system of court-based Children’s Centers which facilitate connections to community organizations. These Centers are literacy-rich environments that promote a safe, welcoming space for children at courthouses. Budget reductions have unfortunately resulted in the closure of several Children’s Centers across the state, but the UCS is working to restore these vital services.

Another goal of the Commission is to improve the quality of court hearings relating to permanency and child welfare. In this regard, the Commission produced a series of guides, videos, and informational brochures to assist courts in adopting best practices for hearings concerning children impacted by abuse and neglect. One handbook, *Tools for Engaging Children in Their Court Proceedings*, serves as a multi-disciplinary guide for judges, advocates, and child welfare professionals with tips on helping children to prepare for and attend court hearings. It also provides a wealth of information about the developmental stages of school-age children. To explain the court process of permanency hearings in child-friendly terms, the Commission produced a video starring youths in foster care and Family Court judges. And to assist children in foster care, the Commission

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6. Invisible disabilities are those that are not immediately apparent. These include debilitating pain, fatigue, dizziness, cognitive dysfunctions, brain injuries, learning differences, mental health disorders, and hearing and vision impairments.

## Child Victims

developed its Healthy Development of Foster Children Initiative. Some courts have designated “Teen Spaces” that act as supervised waiting areas with age appropriate resources to assist youth while they wait in court.

The **New York State Child Welfare Court Improvement Project** (CIP) is one of the Commission’s biggest successes. In 1994, the Court of Appeals designated the Commission to implement the CIP, a federally funded project that promotes the safety, permanence, and well-being of children who are the subject of abuse, neglect, foster care, termination of parental rights, and adoption proceedings. The CIP provides resources and technical assistance to enhance, promote, and coordinate innovation in court operations and practices. Since its inception, CIP has greatly enhanced the capacity of families to provide for their children’s needs. CIP collaborates with the **New York State Office of Children and Family Services** to implement a data-driven, continuous quality improvement process focused on improving practices at the intersection of the legal and child welfare systems. Local interdisciplinary child welfare groups meet regularly with the support of CIP staff located throughout the state. At a minimum, the groups include representation from the bench and bar, local child welfare agencies, foster care agencies, and service providers. In some instances, health care and educational system actors are included.

CIP’s approach is based on the premise that courts cannot make significant progress in the legal processing of child welfare matters solely thorough unilateral action. Nor can child welfare agencies achieve all their objectives unless legal processes improve. Instead, efforts to improve these complex, interdependent systems are most effective when the systems work together. To support these local efforts, the CIP developed the Child Welfare Court Data Metrics based on emerging national standards but tailored specifically for New York. Using information from the court’s Universal Case Management System, data metrics enable CIP to promulgate reports to assist courts to formulate outcome targets and monitor progress.

CIP recently partnered with a private foundation, a data consulting firm, and the Capacity Building Center for Courts to undertake a multi-year study of 12 New York counties to evaluate the quality of permanency hearings. This study provided the UCS with invaluable information to improve the capacity of courts to hold meaningful permanency hearings and enhance the well-being of children in an out-of-home placement.

To ensure the well-being of children in court proceedings, the UCS supports **Court Appointed Special Advocates** (CASA) programs that recruit, train, and supervise Family Court volunteers to provide unbiased, independent information to the court in child abuse and neglect cases. CASA volunteers meet with the child, family members, foster parents, and service providers. They review reports to compile timely and thorough information about child health, safety, well-being and permanency plans. They also monitor the implementation of court ordered service and visiting plans. CASA programs operate throughout New York and receive ongoing administrative and technical support from the UCS.

### **Legal Representation for Child Victims**

Legal representation for children plays an instrumental role in how the UCS serves child victims of abuse and neglect. Part 7 of the Rules of the Chief Judge addresses the standards for attorneys for children (AFC). Each Appellate Division of the Supreme Court has promulgated a set of rules for attorneys who are qualified for assignment as an AFC. To support the assignment of qualified

## Domestic Violence Victims

attorneys, each Appellate Division maintains an office that administers the panels and provides training and oversight. AFCs receive mandated Continuing Legal Education on topics that enhance the quality of representation for child victims.

### Child Victim Safety in the Courthouse

All UCS court officers receive extensive training on child abuse and learn how to identify the signs and symptoms of abuse and maltreatment. As peace officers, court officers are mandated reporters and receive specialized training on the process for filing reports of suspected child abuse and neglect. As part of the day-to-day work in a court house, court officers frequently are called upon to accommodate the special needs of child victims. For example, court officers routinely assist child crime victims/witnesses with courtroom tours to familiarize the children with a courtroom prior to testifying and to reassure them of their safety in the courthouse.

To further minimize the trauma for child victims who are witnesses in court proceedings, Family Court judges receive extensive training on the laws relating to child testimony and how courts can better understand the dynamics of child abuse, trauma and the medical components of abuse. Under Article 1046(vi) of the Family Court Act, previous statements made by a child relating to allegations of abuse and neglect can be admitted into evidence. This evidentiary rule allows the Court to make decisions in an abuse or neglect case without the live testimony of a child. And, more importantly, the child need not be subjected to the trauma of confronting a respondent in court.

Criminal Procedure Law 65.20 sets out the procedures for permitting vulnerable child witnesses to testify via use of live, two-way closed-circuit television. The UCS provides operational support in every criminal case where a judge determines that a child witness is vulnerable and that placing the child witness in the same room as a defendant would contribute to the likelihood of the child witness suffering severe mental or emotional harm.

## 4. Domestic Violence Victims

### E-Filing and SKYPE appearances for Orders of Protection

One of the most significant UCS **Access to Justice** initiatives on behalf of domestic violence victims involves the implementation of the court's **Remote Temporary Order of Protection** (RTOP) program which concerns the electronic filing of family offense petitions and the issuance of ex-parte temporary orders of protection by audio-visual means from a location outside the courthouse. New York law allows for use of this process when traveling to or appearing in court poses an undue hardship or creates a risk of harm to the victim. This service has been particularly helpful to victims of domestic violence.

Remote access has transformed the process for seeking orders of protection by allowing unrepresented litigants to seek relief that was previously unavailable due to transportation and mobility issues, safety concerns, or poor health. Since the RTOP program was implemented, victims of crime have appeared remotely from shelters, agencies, police precincts, local libraries, hospitals, and their

## Domestic Violence Victims

homes.<sup>7</sup> The process is entirely paperless and electronic, including the use of an electronic signature. It eliminates the need for a printer, fax machine or scanner when filing. Currently 16 counties have launched the remote video process; seven additional counties will do so shortly.

A similar court program, the **Advocate Assisted Family Offense Petition Program** (AAFOPP), also allows for the remote preparation and electronic filing of family offense petitions. Launched statewide in 2014 following a successful pilot program in the Bronx, AAFOPP is available to legal service organizations and domestic violence agencies who access the program through a free membership in Pro Bono Net. In 2016, this project expanded with the launch of an additional component that allows for video appearances by SKYPE.

The UCS is engaged in an ongoing campaign to inform advocates, attorneys, court staff, government agencies, and the public about these programs. In partnership with the New York State Office for the Prevention of Domestic Violence, the New York City Mayor's Office to Combat Domestic Violence and Gender Violence, the New York State Women's Bar Association, and the New York State Bar Association, training sessions have been conducted for advocacy organizations, Family Justice Centers, court clerks, judges, bar associations, attorneys, and other community-based organizations.

In addition to working with our partners in government and non-profit organizations statewide, the UCS provides ongoing support to advocacy and community organizations interested in utilizing the RTOP program to better assist the victims they serve. In New York City, the Office of Policy and Planning is working to establish RTOP programs with **Safe Horizon** and at **Columbia University's Barrier Free Living** – the only domestic violence shelter in New York State designed for victims with disabilities. And in Erie County, the Family Justice Center closely collaborated with the local family courts to serve as an intake center for petitioners seeking assistance and temporary relief.

The remote online program has already had a dramatic impact on the lives of crime victims. For instance, in Suffolk County, a 94-year-old homebound person who lived nearly 50 miles from a courthouse received a temporary order of protection with the assistance of a home advocate. Another case involved a family court petitioner with a broken ankle who could not drive or afford taxi service to and from court. The petitioner met an advocate in a safe location at a local library to file and appear electronically.

The **University of Rochester's Healing through Education Advocacy and Law** (HEAL) program offers on-site access to the remote on-line program. The clinic serves both patients from the hospital and intimate partner victims from the community. HEAL is a partnership between Willow Domestic Violence Center, the University of Rochester Medical Center, the Rochester Police Department, Lifespan, RESOLVE, the Legal Aid Society of Rochester, and the Monroe County Family Court.

Federal funding from the **Office on Violence Against Women** (OVW) was secured by the Fifth Judicial District and Office of Court Administration to serve victims of domestic violence and sexual assault in rural communities near Syracuse. The issues faced by litigants in these rural areas are distinct from those of litigants in metropolitan areas. For example, litigants in rural areas face limited access to advocates and public transportation. In addition, physical distance from neighbors, friends and family, and the lack of anonymity associated with small towns all contribute to isolation, limited material and emotional resources, and fewer safety nets. This OVW-funded project has allowed victim advocates from **Vera House** and the Victim Assistance Center to build mobile response teams who meet with victims in

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7. For those victims who choose to appear in person, TOP case processing and court appearances are expedited

## Domestic Violence Victims

rural communities. These counties represent some of the most remote but largest regions in the state. For example, Jefferson County encompasses over 1,268 square miles and shares a border with Canada. Onondaga County, where Syracuse is located, covers approximately 778 square miles.

With the support of court administrators in the Fifth Judicial District, advocates have been supplied with mobile laptops and Wi-Fi hot spots that facilitate electronic filing and video conferencing for temporary orders of protection. Federal funding supported national faith-based training from Safe Havens for advocates and local clergy to build networks of safe spaces in rural communities for filing and remote appearances.

The **Center for Court Innovation** (CCI), originally funded as a public/private partnership between the UCS and the Fund for the City of New York, is a non-profit organization that seeks to help create a more effective and humane justice system. With support from CCI and STEPS to End Family Violence, the **Hidden Victims Project** (HVP), based in Queens County Criminal Court, screens all individuals in the Human Trafficking Intervention Court, Misdemeanor Treatment Court, and Mental Health Recovery Court for domestic and sexual violence. Ongoing exposure to abuse can exacerbate symptoms of mental illness and precipitate mental health crises, making it more difficult for victims to access resources and increases abusers' control over their lives. The HVP provides these victim-defendants with support, individual counseling, safety planning and case management, and conducts outreach and training to social service agencies to ensure that they understand the issues associated with co-occurring domestic and sexual violence and that best practices are utilized to address victim trauma.

### **In-Court Assistance with Orders of Protection**

In addition to remote petitions for orders of protection, each year New York's Family Courts hear thousands of in-court applications for orders of protection. In 2017, New York Courts issued 319,483 orders of protection, 99,918 of which were issued by Family Courts and involved allegations of domestic violence, teen dating violence, or stalking.

Family Court staff works closely with local domestic violence agencies to provide on-site court services. These advocacy services are critical in helping petitioners understand their rights, assist with the process for obtaining final orders of protection, assess danger, and provide for safety planning. In many New York Family Courts, advocates are on-site and help to draft petitions or accompany victims to their hearings. These programs range from informal arrangements in smaller communities to larger court-based clinics. Below are some of the programs used in New York's Family Courts to assist victims of domestic violence:

#### **New York City**

For more than 20 years, the UCS has partnered with **Sanctuary for Families** and Safe Horizon to provide victim services. Sanctuary for Families' **Courtroom Advocates Program** (CAP) has helped thousands of litigants seek relief in New York City Family Courts. CAP engages private legal practitioners and law students who undertake domestic violence work in the earliest stages of their careers. Through year-round trainings at law schools and law firms, CAP enables law students and law firm associates to advocate for domestic violence victims entering family court to obtain orders of protection. Safe Horizon provides crime victims with advocacy and crisis intervention in many New York City criminal and family courts, safe waiting areas where domestic violence victims can meet with trained advocates, and free child care that eases the court experience for victims who attend court hearings. In Brooklyn, the Bronx, and Queens Family Courts, Safe Horizon staff provide supervised visitation in the Children's Centers after court ends for the day. These specially designed facilities

## Domestic Violence Victims

provide a secure location for supervised visitation with court officers nearby and separate entrances to avoid parents encountering one another. Use of the courthouse for this service facilitates parental visits in cases where children have been exposed to domestic violence.

### Westchester County

In the Yonkers and White Plains Family Courts, every victim of domestic violence can be represented by trained attorneys or law students through the **Pace Women's Justice Center Family Court Legal Program (FCLP)**. Both courts designed confidential office space to accommodate the program, which provides victims with the privacy and comfort necessary for meaningful legal consultations prior to appearing in court. The FCLP also accepts referrals from the New Rochelle Family Court. Under the direction of the Pace Women's Justice Center, the FCLP has assisted nearly 1000 victims of domestic violence each year since 1999. FCLP is a partnership between the Westchester County Family Court, Legal Services of the Hudson Valley, Victim Assistance Services, Department of Probation, and Pace School of Law.

### Monroe County

The **Monroe County Family Court Domestic Violence Intensive Intervention Court (DVIIC)** opened in February 1998 as a coordinated community collaboration with the mission of enhancing victim safety and offender accountability. The physical design of the DVIIC allows a petitioner to enter a separate waiting area to meet with probation department staff who will review safety considerations, draft a temporary order of protection petition, and electronically transfer the petition to the court. The Legal Aid Society and Willow Domestic Violence Center are available to discuss legal representation, shelter, safety, and other needs. Court staff escort the petitioner to the DVIIC courtroom through a back door so that the Petitioner and Respondent never cross paths. Court staff are trained in domestic violence, LGBTQ, and cultural sensitivity to ensure that the court is welcoming and safe for all.

### Erie County

Since 1999, the Erie County Family Court has had onsite victim services provided by **Haven House Advocates** from Child and Family Services. From a safe waiting area within the courthouse, these advocates provide safety planning and assistance to victims of domestic violence who are seeking orders of protection.

In 2006, a pilot project was developed between the Erie County Family Court and the **Family Justice Center of Erie County (FJC)**, whereby victims of domestic violence would be able to remain at the FJC while seeking an ex-parte temporary order of protection. This pilot was the first in New York and has since been expanded throughout the state by the UCS through the development of the Advocate Assisted Family Offense Petition Program. Victim advocates from the FJC are present in Erie County Family Court to assist victims during the pendency of their cases. Legal services are also available for victims of domestic violence through Neighborhood Legal Services, Legal Aid Bureau of Buffalo, and the University of Buffalo Law School Family Violence Clinic.

The UCS' Office of Policy and Planning, in partnership with the Center for Court Innovation and Haven House Advocates, recently developed the *Judicial Guide to Domestic Violence Risk Assessments in Family Court Matters*. This Guide, which is now available in all Family Courts throughout the state, provides information for unrepresented litigants on how to draft petitions that

are tailored to the types of relief best suited to their needs and the needs of their families. Since its publication, the Guide has helped ensure that litigants are able to request and receive orders of protection that are responsive to their concerns and tailored to their specific safety needs.

### Orders of Protection and Language Access

As New York's population is among the most diverse in the nation, ensuring language access is critically important to litigants who receive orders of protection. For victims of violent crimes, understanding how orders of protection can provide protection from ongoing intimidation often involves outreach and interpreter services in a wide range of languages. In 2015, the UCS launched a pilot involving the translation of Family Court orders into Spanish. From this pilot in three Family Courts (New York County, Westchester County and Monroe County), the UCS' bilingual order of protection program has expanded into a successful statewide initiative with bilingual orders now available in Spanish, Chinese, Russian, and Arabic in every Family Court, Supreme Court matrimonial action, and a significant number of criminal proceedings.

Language access and court interpreting services are crucial for crime victims who testify in domestic violence, sexual assault, human trafficking, and child abuse cases, since their translations have a significant effect on how testimony is presented and the comfort level of the witnesses. For example, translations can be impeded if the interpreter experiences disbelief, anger, rage or disgust when hearing testimony. The UCS provided training to all court interpreters in 2018 specifically for interpreting in domestic violence and sexual assault cases. The program featured national experts and was approved by the US Office on Violence Against Women.

Beyond language access issues, providing safety to a protected party involves understanding all the terms and conditions of a court order. For many litigants the complicated legal terms contained within court orders can lead to confusion and misunderstanding. A protected party can be particularly vulnerable to intimidation from an abuser when terms of the order lack clarity. In 2017, OVW awarded the UCS a grant to create orders of protection information forms in plain language and in multiple languages. These plain language forms will soon be available throughout the state.

### Crime Victim Information

For many victims, the period immediately following service of an order of protection on an offender can be a time of heightened danger. When an order is issued, copies are provided to the petitioner and the court forwards the order to law enforcement for service. Two free New York State programs provide domestic violence victims information via text, phone, and email. Inmate release notification – known as **VINE** – automatically alerts victims when there is a change in an inmate's custody status. Victims can take some comfort knowing that they will be notified automatically if an inmate's custody status changes. Another program, the **Order of Protection Notification System (OPNS)**, alerts victims when the order has been served. The UCS plays an integral role in the operation of the OPNS. When orders of protection are entered into the UCS case management system (UCMS) and the NYS Order of Protection Registry, data is immediately populated in law enforcement databases maintained by the New York State Division of Criminal Justice Services E-Justice Portal, which is the conduit for providing information of service to a victim through the OPNS. Information is available in courts throughout NYS to educate victims on the program and provide step-by-step registration instructions. Many courts provide computer access for victims to register while in court.



## Trauma Informed Court Practices and Training

To better assist court users who have been severely impacted by crimes of family violence and sexual assault, judges and court staff receive frequent training on domestic violence. Each year the **Family Violence Task Force** offers a full-day training in two locations for judges and court staff across the state. These programs examine issues concerning how trauma affects victims and the accused, cultural diversity, evidentiary issues, and procedural justice in domestic violence cases. Additionally, new judges receive an overview on domestic violence issues at the annual summer judicial seminars held at the Judicial Institute.

The Office of Policy and Planning offers ongoing regional training sessions tied to the specific needs of local stakeholders. OPP also conducts an annual statewide symposium for judges and court staff who work in the domestic violence and integrated domestic violence courts. These programs complement the domestic violence, trauma, and human trafficking training for court officer recruits.

Domestic Violence training and education is extended to the court's community partners and members of the private bar. For instance, attorneys assigned to represent children (AFC) receive UCS sponsored continuing legal education which includes a mandatory domestic violence segment. Regionally, domestic violence courts sponsor trainings on a wide range of topics tailored to the specific needs of the community. For example, the youthful offender domestic violence court in Brooklyn sponsored a local training session on teen dating violence, and the Rensselaer County courts held a risk assessment session featuring information on the local high-risk team that responds to domestic violence cases.

## Domestic Violence and Integrated Domestic Violence Courts

For over two decades, the UCS has been a national leader in promoting models of adjudication for DV cases that ensure victim safety and offender accountability. These specialized courts include criminal parts that exclusively adjudicate DV matters, family court parts that issue orders of protection, and integrated domestic violence courts where judges hear concurrent civil, criminal, and family law matters relating to a single family. In 1996, the first felony DV court opened in Kings County. Subsequently, DV courts dedicated to hearing criminal cases opened throughout New York. In these DV courts, judges and court staff receive substantial training on the court's role in victim safety. Resource Coordinators are assigned to each of these courts to develop and maintain a comprehensive list of services in each county available to victims. They can also assist victims looking for safety planning resources and assistance.

In 2001, the UCS opened its first Integrated Domestic Violence (IDV) Court, which hears civil family cases related to underlying criminal charges. In IDV courts, one judge presides over all aspects of a family's disputes, including orders of protection, criminal hearings, divorce, and custody. Prior to IDV courts, victims of domestic violence, who often had visitation and custody cases, support petitions, matrimonial proceedings, and order of protection hearings pending in local family courts, were forced to appear in multiple courthouses to adjudicate issues that were inter-related. With the advent of IDV, there was an acknowledgment of the value of a victim's time and personal resources. Equally important, the IDV courts consolidate all actions in front of one judge who can ensure consistency in oversight and court orders. The IDV model has been further adapted to meet the needs of the local community, with Albany and Rochester having dedicated DV courts that focus on family law civil matters.

As of 2018, there were over 80 DV and IDV courts throughout New York State. Although the jurisdiction and types of cases handled in these courts differ, they share three primary goals: (1) enhance offender accountability; (2) increase victim safety; and (3) improve community coordination in the response to DV. These courts have enabled the UCS to meet key objectives for the court system's fair treatment of victims.

## 5. Sex Trafficking Victims

The UCS currently has eleven **Human Trafficking Intervention Courts** (HTICs) statewide with three more in the planning stages. These courts provide specialized services to defendants charged with prostitution related offenses in urban and suburban areas throughout the state. The HTICs are designed to link justice-involved victims of sex trafficking to individualized services and treatments. To ensure proper care and consideration is given to these victims, HTIC judges and court staff are trained in procedural justice and trauma informed practices and receive extensive training regarding the dynamics of sex trafficking and its effects on victims. The HTICs assist hundreds of people, mostly girls, women, and transgendered individuals. By treating these individuals as victims instead of criminals, HTICs can connect them to mental health services, drug abuse treatment, social services, housing, medication if needed, and community support. Defendants referred to an HTIC are assessed to determine basic needs, including safety, identification documents, housing, health, mental health, substance use, and medical care. Based upon the information provided, the coordinator uses a trauma-informed approach to create a tailored treatment/services plan and arranges for the appropriate agencies to help individuals complete the court mandates. The HTICs have developed significant relationships and collaborations with local partners to meet the specialized needs of this population.

With a focus on homeless, transgender, and opiate-addicted individuals, HTICs work closely with other problem-solving courts to provide services to victims of sex trafficking whose cases may be pending in those courts. Since many victims of trafficking suffer from mental health and substance use disorders, the Office of Policy and Planning works to connect HTIC participants to the services available in the local drug treatment and mental health courts.

HTIC judges and their teams receive ongoing training on issues related to sex trafficking. Newly assigned HTIC judges are provided with information including a handbook of court-specific materials and online resources. The **Statewide Judicial Committee on Human Trafficking**, chaired by the Hon. Toko Serita, presiding judge of the Queens HTIC, is comprised of all HTIC judges. This Committee meets quarterly to provide HTIC judges with the latest information on sex trafficking and provides an opportunity to discuss cutting-edge issues and techniques. In collaboration with this Committee, OPP organizes annual training programs for the HTIC judges and their teams, as well as local team trainings that take place in the jurisdiction of the HTIC and include prosecutors, defense attorneys, and service providers. Training topics have included gender-based victimization, trauma, addiction issues for justice-involved women, cultural responsiveness in the courts, and transgender issues in the HTICs.

Due to recent legislation, all HTICs outside of New York City are now "hub courts" that can receive intra-county transfers of cases after consultation with the District Attorney and inter-county transfers of cases from adjacent counties with the consent of the District Attorney. Cases eligible for transfer are not limited to those where defendants are charged with typical prostitution related offenses. Rather, all pre-indictment cases involving victims of sex trafficking are eligible for transfer to an HTIC. While

## Sex Trafficking Victims

those charged with prostitution related and massage parlor offenses are easily identified, there are some victims who are charged with other offenses such as Petit Larceny or possession of a controlled substance that are not as easily identified. To facilitate the identification of these “hidden victims,” the UCS is developing a simple screening tool to help judges and other court personnel easily identify defendants in their local criminal courts who may be victims of sex trafficking or are at risk of being trafficked. Judges and other personnel in local criminal courts will be trained on how to use this tool to recognize the signs of sex trafficking and to transfer those cases to the nearest HTIC.

In partnership with the Center for Court Innovation, the UCS continues its work to reform the adult and juvenile justice systems for cases involving sex trafficking victims. Recent projects include increasing court involvement in local coordinated community response activities, developing new practices for cases involving sex trafficking victims, developing strategies to identify victim-defendants and link them to services, implementing trauma-informed practices and interventions for victims, and promoting collaboration among multidisciplinary, community-based agencies to improve communication and develop a coordinated response to sex trafficking. CCI also collaborates with the UCS on the Hidden Victims Project, which as set forth above conducts domestic and sexual violence screening of women and transgender individuals who appear in the Queens HTIC, Queens Misdemeanor Treatment Court, and Queens Mental Health Recovery Court. The HVP is a model for courts throughout the country.

Since 2017, in partnership with the Office of Policy and Planning, the Judicial Committee on Human Trafficking, and the Center for Court Innovation, the Court Officer Academy has developed a curriculum on the dynamics of sex trafficking for all new recruits and in-service court officers, who maintain victim security during court proceedings, including trials and hearings. Many court officers who work with the DV, HTIC, and Sex Offense courts are part of court teams that receive additional specialized training on the dynamics of these cases and employ specialized protocols to maintain victim safety. Court officers are trained to ensure that court egress is safe for victims by using staggered departure and arrival times, accompanying victims after testifying, and to be aware of the presence of exploiters who pose a specific danger in the courthouse.

While services for victims of sex trafficking are typically provided by District Attorney’s Offices, victim service agencies, and community service organizations, where appropriate, the UCS will provide special accommodations for court appearances. Secure waiting areas are made available to avoid intimidation by any exploiter or to address any other safety concern. If a delinquency petition is filed in Family Court against a respondent who is a victim of sex trafficking, the court has the authority to convert the matter to a Person in Need of Supervision proceeding. This allows the judge to place the child into a foster group home or a social service facility for up to 18 months or send the child home under the supervision of a probation officer.

Under the leadership of the Hon. Betty Weinberg Ellerin, former Presiding Justice of the Appellate Division, First Judicial Department, the **New York State Judicial Committee on Women in the Courts** works to secure equal justice, equal treatment, and equal opportunity for women in the courts. A standing committee of the UCS, it has a diverse membership appointed by the Chief Judge of the State of New York. The Committee addresses a variety of concerns of women litigants, attorneys, and court employees. In recent years, it has acted on behalf of constituencies that range from domestic violence victims to immigrant women and from sexually-harassed employees to self-represented matrimonial litigants. The Committee was instrumental in the creation of the statewide network of Human Trafficking Intervention Courts and continues to ensure equality for all women in the courts.

## Other Victims

Chief Judge Janet DiFiore and the Committee have distributed a statewide, online survey to attorneys to identify areas where gender bias impedes equal justice and fair treatment. The Committee will use the findings to formulate and recommend appropriate solutions.

In implementing its mandate to improve the justice system for children, the Permanent Commission on Justice for Children created the **Girls Justice Initiative (GJI)** in partnership with the New York University Steinhardt School of Culture, Education and Human Development and the New York State Division of Criminal Justice Services. GJI addresses the growing criminalization of girls' behaviors, including those related to status offenses and technical violations of probation that too often reflect trauma-induced responses. In New York, girls account for 26 percent of juvenile arrests. These same girls are at high risk of becoming victims of sex trafficking. GJI promotes gender-specific, trauma-informed policies and programs, and is developing a trauma-informed probation and court-based approach for girls involved in the juvenile justice system that is being piloted in Westchester County.

### **Victims of Sex-related Offenses**

Sex Offense Courts seek to enhance public safety by preventing further victimization, provide a comprehensive approach to case resolution, increase sex offender accountability, enhance community safety, and ensure victim safety. Hallmarks of these courts include early intervention, post-disposition monitoring, consistency, and accountability. Each court works with local service providers to facilitate victims' access to child abuse and sexual assault advocates who can provide counseling and access to a multitude of other social services. Sex Offense Court judges and court staff assist with the overall coordination of the myriad law enforcement entities, government agencies, and community services organizations involved with victims of sex offenses. They work with offenders to ensure uniformity and to promote the development and use of best practices. The first Sex Offense Court in New York began operating in 2005. There are presently eight courts located in Erie, Nassau, Orange, Oswego, Queens, Suffolk, Tompkins, and Westchester Counties.

## **6. Other Victims**

**T**he UCS strives to treat all victims and witnesses with dignity, courtesy, compassion, and respect. Mindful of the often-intimidating nature of criminal justice proceedings, judges, court officers, court clerks, and other court staff are trained to be sensitive to the needs of victims and witnesses. In addition, the **CourtHelp** section of the UCS website ([www.nycourts.gov](http://www.nycourts.gov)) provides crime victims with information about their rights, including the right to be protected from threats, physical injury, and intimidation; a right to wait in a secure area when they are in court preparing to testify; and a right to share their views with the court concerning the release of a defendant while the case is pending.

Should they wish to be heard, crime victims may have a voice in criminal proceedings through statements included in a Pre-Sentence Report prepared by the Department of Probation or through a Victim Impact Statement. These are usually written statements, but in the case of felony cases they can take the form of in-person, on the record statements. At the sentencing phase of a proceeding, crime victims may seek restitution for medical and counseling bills, lost wages, property damage, funeral expenses, and incidentals like the cost of changing a lock or a phone number. The CourtHelp website explains the concept of restitution in plain language, distinguishing between expenses that fall within the scope of restitution and those that do not.

## Other Victims

In addition to seeking restitution, many victims have unmet civil legal needs. The UCS provides civil legal services to unrepresented lower-income New Yorkers, including crime victims, through the New York State **Permanent Commission on Access to Justice**. This Commission supports the establishment of a variety of non-legal programs to provide unrepresented individuals with needed resources; holds public hearings to discuss the need for civil legal services; and conducts economic studies to determine the financial benefits and availability of civil legal services.

Many vulnerable New Yorkers have been the victims of predatory lending schemes. Combined with the economic downturn that began in 2007, this led to a mortgage foreclosure crisis that impacted hundreds of thousands of homeowners across the state over the past decade. In response to this crisis, the UCS committed significant resources to foreclosure settlement conferences and the development of information packets and plain language forms, all to provide homeowners a chance to modify their home loan or pursue other forms of loss mitigation. The UCS also refers homeowners to civil legal service providers and housing counselors who can provide homeowners with free legal advice and representation. In addition to offering legal services, these agencies can protect homeowners from foreclosure “rescue scams” whereby perpetrators use deceptive tactics to purchase homes at a fraction of their value.

The UCS has long been supportive of community justice programs which work with communities, in particular crime victims, to tailor creative responses to low-level crimes. New York State’s first community court, the Midtown Community Court, has been open since 1993. Today, the UCS also operates community courts at the Red Hook Community Justice Center in Brooklyn, the Harlem Community Justice Center in upper Manhattan, and Community Solutions in the Bronx. The goal of these courts is to build public trust in the justice system by engaging with prosecutors to think not only about winning their case, but also about solving public safety problems, preventing future crime, and improving community morale. The Red Hook Community Justice Center utilizes community restitution projects and short-term educational groups as part of its plan to reduce recidivism. It also refers defendants to long-term mental health treatment. Judges who preside over the Bronx Community Solutions project can divert low-level offenders away from criminal court into community-based programs, drug treatment, and job training. Bronx residents are encouraged to participate in the operation of this court by identifying possible community service projects.

Many of these programs are rooted in the concept of restorative justice, a system of criminal justice which focuses on the rehabilitation of offenders through reconciliation with victims and the community at large rather than through punishment. The Center for Court Innovation operates two restorative justice programs called “peacekeeping programs” in Red Hook and in Syracuse. Built upon a Native American approach to justice, these peacekeeping programs allow persons involved in disputes that would otherwise end up in the criminal justice system to instead reach an agreement amongst themselves. For instance, two neighbors who get into a fight and are arrested for assault decide to engage in the peacemaking process knowing that they will have to continue living near each other. Throughout their sessions with each other, the neighbors talk about the incidents leading up to their dispute and the underlying issues in their own lives. The peacekeeping process was successful, and over time each recognized the fault in their actions and behavior, apologized to one another, and rekindled their friendship.<sup>8</sup>

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8. See *Inspired by Peacemaking; Creating Community-Based Restorative Programs in State Courts*, [https://www.courtinnovation.org/sites/default/files/documents/Inspired\\_by\\_Peacemaking.pdf](https://www.courtinnovation.org/sites/default/files/documents/Inspired_by_Peacemaking.pdf)

Another program based in restorative justice principles is **Common Justice**, which operates a first-of-its-kind victim service program as an alternative to incarceration focusing on violent felonies in the adult courts. Operating in the Bronx and Brooklyn, Common Justice seeks to divert cases if and only if the crime victim consents, offers victims the opportunity to participate in shaping the consequences for the crime they survived, participate in a restorative justice circle, and develop strategies to cope with the trauma they experienced.

In sum, New York's community-based justice programs are so effective because they utilize creative trauma-informed approaches to conflict resolution that allow crime victims to play an active role in the criminal justice process. These programs reduce recidivism and improve community support for the courts, law enforcement, and local prosecutors.

## 7. Fair Treatment Standards and Recommendations

### For Crime Victims

#### STANDARDS

In compliance with Executive Law § 645, the UCS promulgated "standards for the treatment of innocent victims of crime," which are codified in Part 129.3 of the Rules of the Chief Administrator. As required by Executive Law § 648(2), this report includes "recommendations for changes in [UCS] procedures, services, regulations and laws...to establish and implement fair treatment standards for crime victims."

- 1. Part 129.3(a)(1) requires that, when the court has contact with a crime victim or witness, the court shall take steps to ensure that the victim has been provided with information concerning the victim's role, the stages of the criminal justice process, and how the court can address the needs of the victim.**

The UCS website, [www.nycourts.gov](http://www.nycourts.gov), provides a wealth of information to victims, including contact information for victim service agencies, criminal and civil legal service providers, and community service organizations. The website contains important information about New York's human trafficking intervention courts, mental health courts, and domestic violence courts. It also contains in-depth information on the UCS' offices, including the Office of Policy and Planning and Office for Justice Initiatives, as well as many of the courthouse programs discussed in this report that assist crime victims, vulnerable New Yorkers, and members of the public. The website is updated on a regular basis to provide the latest information.

For crime victims or witnesses to a crime, the local police department and/or District Attorney's Office is the initial point of contact with the criminal justice system. Representatives from these organizations typically provide an overview of next steps in the proceedings and make referrals to victim service agencies, legal service providers, and community service organizations. Crime victims and other vulnerable individuals appear in courts across our state daily, and during proceedings - whether in civil, criminal, or family court - judges and court personnel are sensitive to their needs. Judges and personnel receive regular training on procedural justice, implicit bias, and the unique needs of these individuals. Information is provided at all stages of the court proceedings, where appropriate, from judges, court staff, and UCS Help Centers. For those individuals who do not speak English, interpretation services are available.

## Fair Treatment Standards and Recommendations

In courthouses across the state, there are separate victim waiting areas where onsite victim advocates can meet privately with crime victims. For domestic violence victims, these advocates are available to provide support, assist with a petition for a remote or in person ex parte temporary order of protection, discuss safety planning, provide information about resources in the community, explain court processes to victims who are present, and contact victims to explain procedures such as bail modifications. Many courts have Help Centers where UCS staff provide information and non-legal assistance to unrepresented litigants. There are also many programs staffed by volunteer attorneys who are available to answer questions, provide information about cases, explain court processes, and file appropriate petitions. In delinquency cases, the Department of Probation and the Presentment Agency may discuss with litigants their case status, possible case outcomes, and the juvenile justice process.

### **2. Part 129.3(a)(2) requires that the victim or witness has been notified as to steps the court can take to protect him or her from intimidation.**

Where permitted by law, judges and court personnel will provide information to crime victims or witnesses about the legal processes available to protect victims or witnesses from intimidation. Particularly in cases where the victim is seeking an ex parte order of protection, he or she is notified by the court of the legal protections provided by the order. Additionally, the District Attorney's Office and domestic violence advocacy organizations provide ongoing support to crime victims and witnesses. In all types of courts - whether Family, Criminal, or Civil - judges and court personnel are mindful of victim and witness safety. Court officers receive ongoing training on safety and security concerns for crime victims and witnesses.

While the UCS plays a key role in ensuring victim safety in the courthouse and beyond through the issuance of orders of protection, the court is the neutral arbiter of any legal proceedings and must remain so. It is the role of the District Attorney, the local police, domestic violence and victim advocacy agencies, and community service partners to provide additional guidance and support for crime victims and witnesses.

In child abuse/neglect cases, attorneys provide direct representation for child victims. Attorney for the Child contracts provide fiscal and program oversight of eleven agencies that serve the legal needs of children in Family Court, Supreme Court, and IDV courts.

### **3. Part 129.3(a)(3) provides that the victim or witness who has provided a current address and telephone number has been notified, if possible, of judicial proceedings relating to his or her case, including the initial appearance of an accused and service of an order of protection, the release of an accused, proceedings in the prosecution of the accused, and the reversal or modification of the judgment by an appellate court.**

In partnership with criminal justice stakeholders, the UCS provides information to the public, including crime victims and witnesses, about judicial proceedings. Information is available to the public through e-courts, an online database where anyone can access information on a case from appearance dates to motion filings. Information is also provided by judges in open court, where appropriate, or by court personnel.

To the extent permitted by law, the UCS will notify crime victims or witnesses of proceedings. Judges and court staff receive ongoing training concerning victims' rights and will inform victims or witnesses that they can register to be notified of a defendant's incarceration status with New York State and the New York City Department of Corrections. However, in many proceedings, the judiciary's contact with

witnesses or victims is limited to in-court testimony at a hearing or trial. As such the District Attorney's Office is the point of contact with the victim or witness and additional notifications are made by advocacy groups, the DA's Victim Services Unit, or arranged through the Crime Victims Assistance Program.

For victims of domestic violence, information is provided at the courthouse about the Address Confidentiality Program (ACP), a free program provided by NYS that allows DV victims to shield their actual address to reduce their risk of harm. In this program, victims are assigned a substitute address to use for receipt of all first-class, registered and certified mail. The NYS Secretary of State will then accept service of process on behalf of ACP participants. Participants' mail will then be re-packaged and mailed to their actual mailing address. In Family Court delinquency cases, the Presentment Agency notifies victims of proceedings. In child protective cases, NYS Child Protective Services, NYC Administration for Children's Services, the Attorney for the Child, or the attorney for non-respondent parents provide these notifications to victims and their clients. In family offense and custody/visitation proceedings, counsel to the parties provide these notifications. Further, since the parties are all present in court, they are notified of any appearances or orders, new or modified.

**4. Part 129.3(b) requires that the court shall consider the views of the victims for various types of felonies.**

In the Criminal Term of the Supreme Court and in District Courts throughout the state, victims are given the opportunity to write a victim impact statement (VIS) prior to sentencing and/or appear before the court to deliver a statement in person. The VIS, whether written or in-person, gives the crime victim the singular opportunity to voice their thoughts about the crime, their feelings, their struggles with the aftermath of the crime, the physical and emotional toll of the crime and in some cases directly address the perpetrator. VIS's are often powerful expressions of the crime's impact and provide the court with additional information to consider in determining a sentence.

The District Attorney's Office frequently notifies and consults with victims regarding any possible plea agreement and, indeed, in many cases will only offer a plea agreement with the consent of the victim. Criminal Procedure Law § 390.30 requires a Department of Probation pre-sentence investigation (PSI) report (which may include a VIS) before sentencing a convicted felon (with very few exceptions). In Family Court delinquency cases, the Presentment Agency communicates with the victim and provides the court with a VIS. In family offense cases, the petitioner's/victim's counsel provides the court with the views of the petitioner, who is usually present in court.

**5. Part 129.3(c) requires that the court consider the views of the victim or family of the victim, as appropriate, concerning the release of the defendant in the victim's case upon an indictment or petition, and concerning the availability of sentencing or dispositional alternatives such as community supervision and restitution.**

The court will consider the views of the victim or family of the victim, as appropriate, concerning the release of the perpetrator upon an indictment or petition, and concerning the availability of sentencing or dispositional alternatives such as community supervision and restitution. To the extent available and appropriate, the prosecutors and Probation convey to the court the victim's opinions about the case, desired outcomes, sentencing options, and dispositional alternatives.

The Division of Parole (Parole) ensures that victims of crime are part of the criminal justice process by keeping them aware of their parole process rights. The Parole maintains contact with crime victims and, at their request, keeps victims informed of parole interview dates and decisions and the release dates of the offenders who victimized them. Victims have a right to meet with Parole and/or submit



video or audio-taped victim impact statements prior to an inmate's parole release hearing. The NYS Office of Victim Services (OVS) provides literature which explains how victims can register to receive automatic phone notifications of changes to the defendant's custody status (i.e., release, escape).

- 6. Part 129.3(d) requires that the court take steps to ensure that, whenever possible, victims and other prosecution witnesses awaiting court appearances have been provided with a secure waiting area separate from all other witnesses.**

Victims and other prosecution witnesses awaiting court appearances are provided with a secure waiting area separate from all other witnesses in courthouses statewide. If the victim chooses, family members or victim advocates may be present with them to provide support. In courthouses with secure waiting rooms, a request for access to the area is submitted through a victim advocate to the Department of Public Safety, which is charged with overseeing court security services to all courts throughout the State, ensuring that each of those courts operates in a safe and secure manner, mitigating risk, and assuring that each court is prepared to handle the full spectrum of possible emergencies with emphasis on the court's ability to provide seamless continuity of operations. Family Court takes steps to ensure that victims and other witnesses awaiting court appearances have a secure waiting area separate from all other witnesses. In delinquency cases, victims and witnesses wait in offices of the Presentment Agency. In child protective cases, victims and witnesses wait in the offices of NYS Child Protective Services, NYC Administration for Children's Services, or with the Attorney for the Child. In New York City, victims may wait in Safe Horizon offices located in each courthouse.

- 7. Part 129.3(e) requires that the court assist in and expedite the return of property held for evidentiary purposes, unless there is a compelling law enforcement reason for retaining it relating to proof at trial.**

Once a proceeding is concluded, all property submitted as evidence must be promptly returned. This falls within the purview of the District Attorney based upon the nature and type of property involved. During criminal proceedings, the DA's office holds evidence until it is no longer needed for the prosecution or possible retrial of the case. However, the court can expedite the return of property held for evidentiary purposes unless there is a compelling law enforcement reason, relating to proof at trial, for retaining it.

- 8. Part 129.3(f) requires that any judicial or non-judicial personnel of the UCS having contact with a crime victim or witness, whether for the prosecution or the defense, treat such crime victim or witness with dignity, courtesy and respect.**

It is the UCS' mandatory policy that all judicial and non-judicial personnel treat those who come to the courthouse with dignity, courtesy, and respect. Through training and performance management, the UCS has stressed the importance of maintaining a professional demeanor and being courteous toward all persons seeking assistance from the court. Ongoing professional training is provided by the UCS to all judicial and non-judicial staff who may have contact with crime victim or witnesses. Training topics include: the impact of domestic violence on victims and children; being trauma informed and culturally competent; and community resources to assist victims and their children. Should anyone observe inappropriate interaction between members of the UCS and the public, the incident should be reported immediately to a supervisor, chief clerk, or the UCS Office of the Inspector General. The incident will be investigated, and if necessary, immediate and appropriate corrective action is taken. More information can be found at the website of the Office of the Inspector General, <http://ww2.nycourts.gov/admin/ig/index.shtml>.

9. **Part 129.3(g) provides that the court may direct the District Attorney or a criminal justice agency to take such steps as may be necessary and appropriate to ensure compliance with these standards.**

Court officials work closely with criminal justice agencies as partners to provide the highest levels of service to crime victims and their families. It is common, however, for the court to direct the DA and/or other criminal justice agency to perform certain duties. For example, in child abuse/neglect cases, the court frequently directs NYS Child Protective Services or NYC Administration for Children's Services to ensure parental compliance with court mandates by continuous monitoring through post-dispositional appearances. In certain domestic violence, juvenile delinquency, and sex offense cases, the court frequently directs Probation to ensure defendant/respondent compliance by continuous monitoring. In family offense and child protective cases, the Family Court may direct the DA to investigate and consider initiating concurrent criminal proceedings.

10. **Part 129.4 requires that victim assistance education and training shall be given to judicial and non-judicial personnel of the UCS so that victims may be promptly, properly and completely assisted.**

All judicial and non-judicial employees are encouraged to attend ongoing training programs in procedural justice, implicit bias, and appropriate interaction with litigants. When continuing education is required, personnel are directed to attend and accommodations to their schedules are made. All judges attend conferences and training to ensure that victims are promptly, properly, and completely assisted.

### **Recommendations**

The UCS is dedicated to creating, improving, and enhancing services for crime victims. The following programs and partnerships are being considering as part of the UCS' victim initiatives:

- **Fair Treatment Standards** – The court system's standards for the fair treatment of crime victims, first promulgated in 1987, are set forth at Part 129 of the Rules of the Chief Administrative Judge. Court officials will examine these standards and if appropriate make recommendations to the Chief Administrative Judge.
- **Education** – As required by 22 NYCRR 129.4, the UCS will train court employees on New York's Executive Law and Part 129 of the Rules of the Chief Administrative Judge. The UCS will ensure that all court employees are aware of the current standards and educate court employees about the services that are available to crime victims.
- **Guidebook** – The UCS will develop an online directory of services available to crime victims. This directory will be organized by county so that victims from all over New York State will be able to quickly locate and contact treatment services in their area.
- **District Attorneys** – Many crime victims related services are provided through district attorneys' office. UCS representatives will meet with local prosecutors to determine how the court system can facilitate communication between crime victims and the prosecutors handling their cases.
- **Government Stakeholders** – The New York State Office of Victim Services assists members of the public to cope with being the victim of a crime at the executive level. The UCS will reach out to OVS leadership to determine how the court system can make it easier for crime victims to access OVS' services.

- **Child Safety** - The 2011 budget reduction to the UCS resulted in the closing or reduction of hours of operation of several Children’s Centers across the state. The UCS is working gradually to restore these vital services in every courthouse. In addition, safe and appropriate supervised visitation agencies are needed in every county to protect the safety and well-being of children. To the extent possible the UCS will examine how to better serve children who are the victims of family violence.
- **Domestic Violence** – The UCS will strive to afford domestic violence related service providers access to courthouses to connect victims with immediate support.

## Conclusion

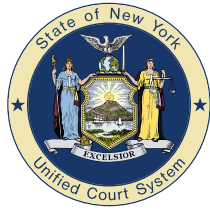
For decades, the Unified Court System has grown and evolved, bolstered by an extraordinary team of judges, administrators, law clerks, referees, court clerks, interpreters, court officers, resource coordinators, project directors, and many others. The genesis of this growth has been our fundamental commitment to fairly and efficiently adjudicating every case while treating every person who walks through our doors with the dignity and respect. This principle applies not just to litigants but to crime victims who become part of the criminal justice system through no fault of their own. Young children with abusive parents, older New Yorkers who are taken advantage of by family members or caretakers, domestic violence victims, victims of human trafficking and sexual violence, and persons of all ages who are living with mental illness or substance use disorders - these vulnerable New Yorkers must be treated with care and referred to appropriate treatment and trauma services.

The Unified Court System is committed to ensuring that crime victims receive the support they need through the training of court personnel, open communication with district attorney’s offices and community-based agencies, and intensive oversight by judges. Mindful of our capacity to advance further, Chief Judge Janet DiFiore’s Excellence Initiative requires the UCS to improve court operations at every level and to ensure high quality judicial decision-making and court services. Enormous efforts have been undertaken to decrease backlogs, combat the burgeoning opioid crisis, implement the “Raise the Age” legislation, and increase access to justice for all New Yorkers. Many of New York’s crime victims are “hidden” victims with “hidden” traumas. They too are part of the Excellence Initiative.

This report demonstrates the Unified Court System’s excellence in assisting crime victims throughout the court process and beyond. But there is always more we can do. Toward this end, the UCS remains committed to ongoing self-examination and improvement of its operations relating to the Fair Treatment Standards for Crime Victims.

# Court Resources

- New York State Unified Court System:  
[nycourts.gov](https://nycourts.gov)
- Office of Justice Initiatives:  
[nycourts.gov/ip/OJI/index.shtml](https://nycourts.gov/ip/OJI/index.shtml)
- Office of Policy and Planning:  
[nycourts.gov/admin/opp/index.shtml](https://nycourts.gov/admin/opp/index.shtml)
- Access to Justice:  
[nycourts.gov/ip/nya2j/index.shtml](https://nycourts.gov/ip/nya2j/index.shtml)
- CourtHelp:  
[nycourts.gov/courthelp](https://nycourts.gov/courthelp)
- Center for Court Innovation:  
[courtinnovation.org](https://courtinnovation.org)
- Commission of Justice for Children:  
[nycourts.gov/ip/justiceforchildren/index.shtml](https://nycourts.gov/ip/justiceforchildren/index.shtml)
- Committee on Women in the Courts:  
[nycourts.gov/ip/womeninthecourts/index.shtml](https://nycourts.gov/ip/womeninthecourts/index.shtml)
- Court Access (ADA):  
[nycourts.gov/accessibility/index.shtml](https://nycourts.gov/accessibility/index.shtml)
- Language Access:  
[nycourts.gov/courtinterpreter/index.shtml](https://nycourts.gov/courtinterpreter/index.shtml)
- Attorney Volunteer Program:  
[nycourts.gov/attorneys/volunteer/vap/index.shtml](https://nycourts.gov/attorneys/volunteer/vap/index.shtml)
- Court Navigator Program:  
[nycourts.gov/COURTS/nyc/housing/rap.shtml](https://nycourts.gov/COURTS/nyc/housing/rap.shtml)
- Child Welfare Improvement Project:  
[nycourts.gov/IP/cwciip/index.shtml](https://nycourts.gov/IP/cwciip/index.shtml)
- Richard C. Failla LGBTQ Commission:  
[nycourts.gov/IP/LGBTQ/aboutthecommission.shtml](https://nycourts.gov/IP/LGBTQ/aboutthecommission.shtml)
- Franklin H. Williams Commission on Racial and Ethnic Fairness:  
[nycourts.gov/ip/ethnic-fairness/index.shtml](https://nycourts.gov/ip/ethnic-fairness/index.shtml)
- New York State Office of Victim Services:  
[ovs.ny.gov/help-crime-victims](https://ovs.ny.gov/help-crime-victims)
- New York State Office of Children and Family Services:  
[www.ocfs.ny.gov/main](https://www.ocfs.ny.gov/main)
- New York State Division of Criminal Justice Services:  
[criminaljustice.ny.gov](https://criminaljustice.ny.gov)
- Office of the UCS Inspector General:  
[nycourts.gov/admin/ig/index.shtml](https://nycourts.gov/admin/ig/index.shtml)
- New York State Judicial Institute:  
[nycourts.gov/ip/judicialinstitute](https://nycourts.gov/ip/judicialinstitute)
- Safe Horizons:  
[safehorizon.org](https://safehorizon.org)
- Common Justice:  
[commonjustice.org](https://commonjustice.org)
- Sanctuary for Families:  
[sanctuaryforfamilies.org](https://sanctuaryforfamilies.org)
- Haven House:  
[cfsbny.org/programs/haven-house](https://cfsbny.org/programs/haven-house)
- Family Justice Center:  
[fjcsafe.org](https://fjcsafe.org)
- Order of Protection Notification System:  
[opalert.ny.gov/opalert](https://opalert.ny.gov/opalert)



NEW YORK STATE UNIFIED COURT SYSTEM



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