

Fiscal Year 2006 Report



DC Court Watch

Prepared by
DC Coalition Against Domestic Violence and
Survivors and Advocates for Empowerment
(SAFE)

www.dccadv.org/courtwatch



Court Watch • Washington, DC

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INTRODUCTION: The Court Watch Movement in DC

INTRODUCTION

The DC Coalition Against Domestic Violence, an advocate for legal protections for survivors of domestic violence for twenty years, is pleased to further the protections available to survivors by including Washington, DC in the national Court Watch movement. Court Watch programs, which exist in many parts of the United States, ensure judicial transparency in domestic violence cases. The Court Watch data and resulting recommendations presented in this report provide a public safety-centered perspective to court hearings and legal proceedings that are generally evaluated on a strictly legal basis.

It is critical to the legitimacy of the legal system that the system be transparent while it addresses domestic violence cases. The actions of judges, clerks, attorneys, advocates, and interpreters all make a tremendous difference in the confidence that victims have in the system, and in the public's trust that domestic violence is taken seriously by the Court. Because the majority of the petitioners in this study, and indeed the majority of those who seek services through the Domestic Violence Unit of the Family Division of the DC Superior Court, are ultimately unrepresented by counsel, the information in this report will help advocates to isolate areas where they can improve the information and logistical support that they provide to survivors of domestic violence.

The DC Superior Court's Domestic Violence Unit provides unparalleled services to thousands of domestic violence survivors each year. DCCADV's Court Watch Project hopes that this report will serve as a vehicle for victims, court personnel, judges, attorneys, and advocates to see the overall picture of how domestic violence cases were addressed, and to hear the voices of domestic violence survivors who have accessed judicial resources. The 2006 report is a compilation of objective data gathered from January 2006 to September 2006, an analysis of that data, excerpts from transcripts of hearings, as well as recommendations and areas of further research by the project.



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COURT WATCH GOALS AND OBJECTIVES

The goals of the Court Watch Project are to encourage everyone who works within the justice system of the District of Columbia to identify ways of increasing survivor safety and offender accountability, and to improve the experience of accessing judicial relief. To this end, the Project provides objective data; acknowledges exemplary actions by judges and court personnel; identifies patterns within the judicial system that may be helpful or harmful to survivors of abuse and their children; assists in the creation of a dialogue between the Court and the public regarding how courts handle domestic violence; and proposes practical solutions to improve and standardize Court responses in domestic violence cases. Although the report is sometimes critical of judicial behavior, Court Watch also recognizes the vast amount of good work done within the Domestic Violence Unit and does not seek to restrict judicial independence or neutrality.

THE STATE OF DOMESTIC VIOLENCE: SOME STATISTICS

Domestic violence occurs at an alarming rate worldwide, around the country, and in the District of Columbia. One third of all women in the world report having been sexually or physically assaulted by an intimate partner at some point in their lives.ⁱ Nationally, approximately four million women are assaulted each year by a spouse, boyfriend, or other intimate partner. This results in the deaths of approximately 1,200 women and 400 men each year at the hands of an intimate partner.ⁱⁱ In fact, domestic violence is the leading cause of death for women in the workplace,ⁱⁱⁱ and the leading cause of death for pregnant women.^{iv} The social, economic, and intergenerational impact of domestic violence is also enormous. While domestic violence occurs across all socioeconomic groups, it is a leading cause of poverty and homelessness among women and children. Twenty percent of all abused women report that they directly lost their job because of harassment or assault on the job by their abuser. Fifty percent of all homeless women and children in the United States lost their housing because of domestic violence.^v The impact on children is staggering. Fifty percent of all batterers also physically abuse the children in the household.^{vi} Children who witness domestic violence are at high risk for juvenile delinquency, suicide (six times more likely than other children), and ultimately of becoming batterers themselves as teens and adults.^{vii}



Shockingly, homicide is a leading cause of traumatic death for pregnant women, and 324,000 pregnant women are battered by their partner every year.^{viii}

The extent of domestic violence as a public safety issue in the District of Columbia is staggering. In 2005, domestic violence case filings totaled 8,386, an increase of 3.7% over 2004, including 4,426 misdemeanors and 3,960 intrafamily cases.^{ix} In 2005, the Metropolitan Police Department (MPD) received 27,401 domestic-related crime calls—one every 19 minutes—including 11,053 calls to report domestic violence crimes (30 calls per day) and 16,348 calls to report family dispute crimes (45 calls per day).^x The number of domestic violence calls to MPD has increased 22% in the past three years, from 9,045 calls in 2002 to 11,053 calls in 2005.^{xi} In 2005, the District's two Domestic Violence Intake Centers served 4,948 people, and the number of cases filed increased by 4.3% from 2004.^{xii}

In light of these statistics and outcomes, some people arrive at the conclusion that both parties in a violent relationship must learn to modify their behavior and work to get along with one another for the sake of the safety of the home and the welfare of the children. However, by indicating that the blame is equal or that mediation is an option, victim safety is compromised and those who experience abuse are left with an impossible burden. Domestic violence reflects a severe imbalance of power in a relationship, and is defined by the use—or threatened use—of physical and sexual violence by the abuser to assert or maintain power over the victim. This occurs through isolation, economic entrapment, the use of children as a tool for manipulating the victim, intimidation and threats, stalking and harassment, and ultimately leads to the use of physical and sexual violence.

The most dangerous action that a victim of domestic violence can take is to leave the abuser, because it signifies the ultimate loss of control for the batterer. The abuser is 75% more likely to kill the victim if the victim attempts to leave the relationship.^{xiii} The court plays a crucial role in this process. Most victims who access this institution do so at a time when they are attempting to leave the abusive relationship.

Because leaving the relationship heightens the danger to the victim so dramatically, two priorities must remain paramount when providing court services: safety for the victim, and accountability for the abuser. Reconciliation between the parties may occur on its own, and statistics indicate that the victim will return to the abuser five to seven times before the



couple finally separates.^{xiv} A consistent response from law enforcement and the courts every time a victim seeks assistance is vital to allowing victims to break the cycle of abuse and stop the snowball effect that it produces in their lives and the lives of their children. Advocates and the court must recognize that the very act of seeking help may be the action that produces the most violent response from the batterer. Perpetrators of domestic violence have committed a crime and should be held accountable whether by the terms of a protection order or by criminal prosecution and sentencing that is swift, consistent and meaningful.

Ultimately, perpetrators of violence must be held responsible for changing their behavior or be penalized, and victims must be provided with every means possible to live in safety and rebuild their lives.

PROJECT DESIGN

For this project, trained volunteers observed Civil Protection Order hearings in DC Superior Court's Domestic Violence Unit from January 2006 through September 2006. The days and times of these observations were based on volunteer availability and the Court schedule. A total of 349 cases were observed.

Data Collection Instrument

DCCADV created the data collection instrument based upon instruments used in similar programs in New Jersey and Minnesota. These forms were provided to the Domestic Violence Advocate's Bar and the Presiding Judge of the Domestic Violence Unit for review and comment. Their suggestions were incorporated before the form was implemented. The form is located in the Appendix.

In addition to volunteers' standardized data collection, volunteers observed hearings and included significant information on the relevant forms about the Court's attitude towards domestic violence, both good and problematic. The project used the transcripts from those hearings to clarify what occurred in the courtroom. The results of these observations and the review of the transcripts are listed under the *Qualitative Information* section, beginning on page 18.



Volunteers

From December 2005 through August 2006, DCCADV's Survivors and Advocates for Empowerment (SAFE) Program recruited and trained volunteer Court Observers. Recruitment and training was led by SAFE's Volunteer Coordinator, Nicole Smolter. Volunteers were recruited through online postings at volunteer sites such as Ideaslist.org and Volunteermatch.org; various academic departments and career centers at local universities and law schools; as well as the DC Coalition Against Domestic Violence's website. Prospective volunteers completed SAFE's volunteer application and submitted a resume. They were interviewed by the Volunteer Coordinator about their reasons for volunteering, experience with domestic violence issues and the court process, and what they wished to gain from the experience. Ultimately, a diverse group of twenty-five volunteers representing many different ethnic and racial backgrounds, ages, genders, and levels of experience with the court system participated in the project. Before they began training, volunteers signed a confidentiality agreement.

Volunteers were recruited throughout the observation period and were individually trained as they were accepted. The training program was developed by the Volunteer Coordinator and the Program Director and consisted of a two-hour training session, one day of observation, and a one-hour follow-up training session. A training manual was also developed to aid in training volunteers. The training included the following: basic information about domestic violence issues; an overview of the court process including a glossary of terms; an overview of Civil and Temporary Protection Orders; and an explanation of the DC Intrafamily Offenses Statute. The majority of volunteer training time was spent reviewing courtroom procedures, volunteer protocol, and instructions on how to correctly complete the data collection instrument.

To conclude their training program, volunteers sat in court for a minimum of a four-hour observation period. During this time they completed the court observation forms and took notes on the hearings and noted questions that arose. After their court observation shift, the volunteers met once again with the Volunteer Coordinator to review their observations and address any questions they had about particular cases, procedures or the observation forms.



Upon successful completion of the training program, volunteers began observing on their own, and were able to continue to ask questions and clarify any issues with their observations on a daily basis with the Volunteer Coordinator and the Program Director.

Court Observation

Court observations began in January 2006 and continued through September 2006. Because of the length of the observation period and the varying schedules of volunteers (such as students who had different schedules for spring and summer semesters), volunteers remained observers between two and four months. Volunteers were also required to observe for at least four hours per week (all on the same day). The hours observed per week for volunteers ranged between four and ten hours. In total, six male judges and one female judge were observed as they presided over Civil Protection Order (CPO) hearings. Individual judges were observed as few as three times and as many as 215 times. Volunteers collected a total of 349 usable court observations.

Limitations

The major limitation of this study, as with some other Court Watch studies, is its generalizability. The sample of cases observed was not random and depended entirely on volunteer availability. Also, the number of cases observed for each judge was dependent on the judges' rotation schedule in the Domestic Violence Unit of the Court. Because of the non-random sample of observation, it is difficult to say that the cases observed are a true representation of all of the CPO cases heard during this period. This does not mean that the results found have no validity. However, care must be taken when drawing concrete conclusions.

Also, more than 30 observations were removed from the study because of missing information for vital statistics (such as disposition of the case or presence of the petitioner) or for contradictory information recorded. Additionally, some of the observations were incomplete, but because the vital statistics (disposition, petitioner/respondent sex and attendance, name of judge) were present, they were included in the study. These



observations are included because they helped to develop an overview of the Civil Protection Order process.

The relationship between the parties was often missing due to the judge or either party omitting whether the parties had been dating, married, divorced, separated, or were related by blood or custody. Race was also sometimes not indicated because one or both of the parties were absent or the race could not be determined from a visual observation alone. The judge's attitude toward the parties was also missing in many observations because in cases that were dismissed, continued or granted a consent order (i.e., an agreement was reached prior to the hearing and testimony was not taken from either party), the interaction between the judge and both parties was minimal.

Similarly, specific information about allegations (i.e., assault, harassment, etc.), as well as child custody or other related cases (i.e., criminal or divorce), was not always obtained because this information was not usually presented in great detail when a case was continued, dismissed or granted through a consent order. Since only twenty-five percent (25%) (35 cases) had hearings for their CPO cases and thus were able to provide more detailed information, it is difficult to draw any significant conclusions from such a small sample about the judges' attitudes, testimony, evidence, child custody and specific allegations. Thus some of these findings are not included in this report.

Finally, because of the dramatic number of variants between judges, differences in disposition between judges were not analyzed for a statistical relationship. However, a frequency table is presented.

METHODS

Frequencies of responses were computed for some of the variables on the court observation form and the results are described below. As mentioned, the limitations of this study did not allow us the inclusion of all of the original variables contained on the court observation form. Cross-tabulations of certain variables are also included below. However, no attempt at finding a statistical relationship was made because of the small sample size and the limitation of the data, thus any inference of relationships between these variables should be interpreted with caution.



RESULTS

I. Case Resolution

Table 1: Overall Case Resolution

Resolution	Frequency	Percent
Continuance	113	32.4%
Dismissal	96	27.5%
Granted	129	36.9%
Denied	11	3.2%
Total	349	100.0%

Table 1 shows the resolution of all 349 cases. It appears significant that only 36.9% (129) of CPOs were granted. However, only 3.2% (11) of the CPOs were denied. The low number of CPOs granted is dependent on the high number of cases continued, 32.4% (113), or dismissed, 27.5% (96). The reasons for the high number of continuances and dismissals are explored in later tables.

Table 2: Number of Cases Heard and Resolution by Judge

Judge	Resolution				Total Cases Heard
	Continued	Dismissed	Granted	Denied	
Judge 1	35.3% (76)	24.2% (52)	38.1% (82)	2.4% (5)	215
Judge 2	28.6% (28)	36.7% (36)	28.6% (28)	6.1% (6)	98
Judge 3	22.2% (2)	11.1% (1)	66.7% (6)	0% (0)	9
Judge 4	0% (0)	66.7% (2)	33.3% (1)	0% (0)	3
Judge 5	25.0% (2)	12.5% (1)	62.5% (5)	0% (0)	8
Judge 6	42.9% (3)	0% (0)	57.1% (4)	0% (0)	7
Judge 7	22.2% (2)	44.4% (4)	33.3% (3)	0% (0)	9
Total	113	96	129	11	349

**Table 3: Reasons Civil Protection Order was Continued, Dismissed or Denied**

Resolution	Reason Given					Total
	Petitioner Request	Lack of Service	Petitioner Absent	Lack of Evidence	Other	
Continued	0% (0)	65.4% (70)	0% (0)	0% (0)	34.6% (37)	107
Dismissed	21.1% (20)	2.1% (2)	68.4% (65)	0% (0)	8.4% (8)	95
Denied	0% (0)	0% (0)	12.5% (1)	87.5% (7)	0% (0)	8
Total	9.5% (20)	34.4% (72)	31.4% (66)	3.3% (7)	21.4% (45)	210*

* Reason not given for ten cases

For each resolution, there is one reason given for the majority of the cases. For cases that were continued, the reason given for over half of the cases was a Lack of Service, 65.4% (70), (e.g., the respondent could not be served with notice of the hearing or the existence of a Temporary Protection Order within the two week time period). The Other category was also frequently given as a reason for cases that were continued, 34.6% (37). This category often included a request for more time to obtain legal representation, gather evidence or present witnesses. The petitioner's absence was the reason for over half, 68.4% (65), of the dismissals. It is also important to note that 21.1% (20) of the cases dismissed were at the petitioner's request. Finally, for the cases that were denied, the reason given the majority of the time was Lack of Evidence, 87.5% (7).

Table 4: Consent Orders vs. Orders Granted and Denied after Hearing

Type of Order	Frequency	Percent
Consent Order	105	75.0%
Order Granted after Hearing	24	17.1%
Order Denied after Hearing	11	7.9%
Total	140	100%

In the District of Columbia, parties in a Civil Protection Order case have the opportunity to meet with an attorney negotiator to try to reach a consent agreement for the order instead of proceeding with a hearing. This option allows for a quicker court process and sometimes



avoids having the victim give testimony in court. The majority of the CPOs granted were reached by a consent agreement instead of having a hearing, 75.0% (105). Only 25% (35) of the cases granted or denied went to trial.

Table 5: Consent Order Reached Prior to Hearing

Consent Reached Prior	Frequency	Percent
Yes	88	92.6%
No	7	7.4%
Total	95*	100.0%

* Information was missing for ten cases

Of the cases that were granted a Consent Order, 92.6% (88) of them reached a consent agreement prior to seeing the judge. Only 7.4% (7) cases needed to have the judge resolve one or more issues with the order. Many times the parties agreed on all issues except the child custody and visitation schedule, which was then resolved by the judge.

II. Characteristics of the Parties

Table 6: Attendance of Petitioners and Respondents

	Respondent		Total
	Present	Absent	
Petitioner Present	64.8% (173)	35.2% (94)	267 (76.5%)
Petitioner Absent	39.0% (32)	61.0% (50)	82 (23.5%)
Total	205 (58.7%)	144 (41.3%)	349

As seen in Table 3, the reason given most often for a case that was dismissed was because of the petitioner being absent. When the respondent was present, the petitioner was absent 39.0% (32) of the time. When the respondent was absent, the petitioner was also absent 61.0% (50) of the time. Overall, the petitioner was absent 23.5% (82) of the time. Only 64.8% (173) of the cases had both the petitioner and the respondent present. Overall



the respondent was present 58.7% (205) of the time. This includes five cases in which the respondent was in jail or prison after being accused or convicted of a crime. That crime may or may not have been an intrafamily offense.

Table 7: Gender of Petitioner

Petitioner Gender	Frequency	Percent
Female	234	84.8%
Male	42	15.2%
Total	276*	100.0%

* Gender was not reported for 73 of the petitioners

Table 8: Gender of Respondent

Respondent Gender	Frequency	Percent
Female	51	22.6%
Male	175	77.4%
Total	226*	100.0%

* Gender was not reported for 123 of the respondents

Table 9: Race of Petitioner

Race of Petitioner	Frequency	Percent
White	11	4.3%
Black	220	86.3%
Hispanic	20	7.8%
Other	4	1.6%
Total	255*	100.0%

* Race was not reported for 94 of the petitioners

**Table 10: Race of Respondent**

Race of Respondent	Frequency	Percent
White	9	4.7%
Black	158	82.3%
Hispanic	21	10.9%
Other	4	2.1%
Total	192*	100.0%

* Race was not reported for 157 of the respondents

As with gender, there were a large number of cases missing information on race for the petitioner and/or respondent. However, given the high percentage of petitioners and respondents absent, this was to be expected.

Table 11: Relationship between Parties

Relationship	Frequency	Percent
Married	20	15.2%
Separated	5	3.8%
Dating	19	14.4%
Formerly Dating	34	25.8%
Family Member	25	18.9%
Divorced	3	2.3%
Child In Common	17	12.9%
Other	9	6.8%
Total	132*	100.0%

*Relationship was not reported for 217 cases

The relationship between parties is distributed amongst a number of different types of relationships with no type representing the majority. The most frequent relationship observed was that the parties were formerly dating, 25.8% (34). The least frequently observed was that the parties were divorced, 2.3% (3). Possibly somewhat surprising, 18.9% (25) of the cases involved family members. A large number of cases were missing information on the relationship between the parties. However, since the majority of the cases



did not involve a hearing and testimony from both parties, the relationship was not always explicitly stated by either party or asked about by the judge.

Table 12: Legal Representation of the Parties

Representation	Frequency	Percent
Neither Represented	111	66.1%
Both Represented	34	20.2%
Petitioner Only	20	11.9%
Respondent Only	3	1.8%
Total	168*	100.0%

* *Representation was not reported for one or both parties in 181 cases*

For the cases where information was available (i.e., one or both parties were present and there was no missing data), 66.1% (111), neither the petitioner nor the respondent were represented. Both parties were represented in only 20.2% (34) of the cases. In cases where only one person was represented, the petitioner was more likely to be represented, 11.9% (20) than the respondent, 1.8% (3).

III. Issues in the Case

Type of Abuse

The type of abuse was recorded in 29 of the cases. 55.2% (16) reported the violence was physical, 24.1% (7) reported the violence was non-physical and 20.7% (6) reported the abuse was both physical and non-physical.

Other Actions Pending

Information about other actions pending was only reported in 91 of the cases. These were actions related to the CPO case and included criminal (usually for the same incident), divorce, child custody and child support. Of these 91 cases, 47.3% (43) reported having other actions pending and 52.7% (48) reported having no other actions pending.



Child Custody and Visitation

Child custody and visitation information was only reported in 64 cases. Of these cases, child custody and visitation was reported to be an issue in the protection order in 42.2% (27) of the cases, and was said not to be an issue in 57.8% (37) of the cases.

Cross-Complaints

Cross-complaints were filed in 88.5% (31) of the 36 cases that went to trial and complaints were not filed in 11.4% (4) cases.* In cases where a cross-complaint was filed, the cross-complaint was heard at the same time as the original complaint in all but one case.

**Missing data for one of the cases that went to trial*

IV. Judicial Behavior

Judicial Explanations of Procedure

Information about whether the judge explained the court process was gathered in 71 cases. Judicial explanations of procedure involved information and instructions such as who would give testimony, what order the judge would hear the parties and directions on how to ask and answer questions. The judges explained the process in 80.3% (57) of the cases and did not explain the process in 19.7% (14) of the cases.

Table 13: Judge Inquired about History of Domestic Violence and Disposition

Inquire about History of DV	Resolution			Total
	Continued	Granted	Denied	
Yes	8.7% (2)	69.6% (16)	21.7% (5)	23 (30.7%)
No	13.5% (7)	82.7% (43)	3.8% (2)	52 (69.3%)
Total	12.0% (9)	78.7% (59)	9.3% (7)	75

Judges did not ask about a history of domestic violence 69.3% (52) of the time. However, this did not impact the number of cases granted or denied.

**Table 14: Attitude toward Petitioner**

	Yes	No	N/A	Total Responses*
Judge Addressed Directly	97.1% (100)	2.9% (3)	-	103
Judge Satisfied with Petitioner's Statements	94.7% (89)	5.3% (5)	-	94
Petitioner Addressed Judge Directly	90.8% (89)	9.2% (9)	-	98
Judge Patient with Petitioner	93.7% (89)	6.3% (6)	-	95
Judge Interrupted Petitioner	18.8% (18)	81.3% (78)	-	96
Judge Answered Petitioner's Questions Fully	51.1% (47)	8.7% (8)	40.2% (37)	92
Judge Showed Visible Signs of Disapproval of Petitioner or Petitioner's Actions	9.4% (9)	90.6% (87)	-	96
Judge Reprimanded Petitioner	13.4% (13)	86.6% (84)	-	97

**Total responses for each category differs depending on the availability of evidence for each measurement determined by the length and extent of the case.*

Overall, judges' attitudes towards petitioners were generally positive with most of the measurements having a 90% or higher positive response. The areas where some negative attitudes are shown are where the judge interrupted the petitioner, 18.8% (18) of the time, and where the judge reprimanded the petitioner, 13.4% (13) of the time. The judges also showed visible signs of disapproval of the petitioner or petitioner's actions in 9.4% (9) cases. Petitioners did not address the judge directly in 9.2% (9) of the cases.

**Table 15: Attitude toward Respondent**

	Yes	No	N/A	Total Responses*
Judge Addressed Directly	97.7% (85)	2.3% (2)	-	87
Judge Satisfied with Respondent's Statements	83.5% (66)	16.5% (13)	-	79
Respondent Addressed Judge Directly	94.2% (81)	5.8% (5)	-	86
Judge Patient with Respondent	96.4% (80)	3.6% (3)	-	83
Judge Interrupted Respondent	27.7% (23)	72.3% (60)	-	83
Judge Answered Respondent's Questions Fully	67.9% (57)	4.8% (4)	27.4% (23)	84
Judge Showed Visible Signs of Disapproval of Respondent or Respondent's Actions	20.3% (15)	79.7% (59)	-	74
Judge Reprimanded Respondent	30.1% (25)	69.9% (58)	-	83

**Total responses for each category differs depending on the availability of evidence for each measurement determined by the length and extent of the case.*

Overall, the judges' attitudes towards respondents showed slightly higher percentages of negative responses than those found for petitioners. Judges interrupted the respondent 27.7% (23) of the time, reprimanded the respondent 30.1% (25) of the time and showed visible signs of disapproval towards the respondent 20.3% (15) of the time. Judges were not satisfied with the respondents' statements in 16.5% (13) of the cases.



V. Court Decorum

Table 16: Court Decorum

	Yes	No	N/A	Total Responses
Proceedings Audible	97.8% (89)	2.2% (2)	-	91
Judge familiar with facts of case	98.7% (76)	1.3% (1)	-	77
Judge attentive to proceedings	100.0% (88)	0.0% (0)	-	88
Court staff attentive to proceedings	100.0% (88)	0.0% (0)	-	88
Court staff helpful when addressed	61.3% (49)	0.0% (0)	38.8% (31)	80

Total N differs for each of the measurements depending on the availability of evidence for each measurement determined by the length and extent of the case.

Overall the court decorum was extremely positive with audible proceedings in 97.8% (89) of the cases, the judge familiar with the facts of the case in 98.7% (76) of cases and the judge and court staff were attentive in 100% (88) of the cases. Also, when the court staff was addressed they were helpful in 61.3% (49) of the cases.

VI. Other Issues Relating to Access to Judicial Relief

In July, Court Watch began measuring the time a petitioner waited to see a judge at the Domestic Violence Intake Center Southeast Satellite Office (DVICSE) at Greater Southeast Community Hospital after repeated complaints from advocates and clients. During the summer and into the fall of 2006, petitioners seeking services at the DVICSE experienced significant delays before seeing a judge for a Temporary Protection Order. In many instances this wait was well over three hours. In one case, on Thursday July 13, 2006, a petitioner who initially signed in at 9:05AM, and was the first client in that day, had to wait approximately seven hours before finally seeing a judge at 4:05PM. That was the first time the judge became available to the DVICSE that day. In addition, there were several other clients who went in that day, after 9:05AM but well before 2:00PM, who also had to wait



more than three hours to see a judge, even after receiving all of the necessary services at the center.

On July 18, 2006, the clerk at the DVICSE was told that there was not a judge available at all. Some clients were asked to go to the Courthouse in Northwest DC for their Temporary Protection Order hearings, a request that caused petitioners to become upset. On November 6, 2006, three domestic violence victims arrived at DVICSE before 9:30AM and did not see a judge until 2:46PM that day. One woman had been waiting since the center opened at 8:30AM. She had just left to pick up her children from school—something that was a safety concern for her—when the clerk called the client on her cell phone and told her to return to the building, because the judge would see her at that point. During the months of September and October 2006, the waiting time to see a judge at the Greater Southeast Community Hospital site was recorded; times were recorded for 74 cases. The average wait was three hours and one minute. Waiting times ranged from fifteen minutes to six hours and twenty minutes. In 21.6% (16) of the cases, the waiting time was four hours or more and only 5.4% (4) of the cases had a waiting time of one hour or less.

Petitioners report distrust and decreased quality of service as a result of such length delays. They question the Southeast Center's ability to provide services and the degree to which client safety is taken seriously by the Court, when clients are still being sent from the DVICSE to the Superior Court in Northwest in order to see a judge—compounding the transportation, employment, and childcare issues that caused them to seek relief at DVICSE initially. Further, because the Crime Victim's Compensation Program cannot put petitioners in safe housing until they have obtained a Temporary Protection Order, victims who cannot be seen by a judge on the day that they file must find a safe place to stay the night until they can return to court the following day.

Since January 3, 2007, the wait times at Southeast have been improved dramatically through a concerted effort by the Court as well as the other DVIC partners. This problem was addressed through the committee structure that administers the DVICs, and petitioners have noted the difference.



QUALITATIVE INFORMATION

Although the objective data obtained through the formal observation process is important, it contains gaps that do not provide a full picture of the complex interactions that occur before, during and after court. The following quotes were those that observers and advocates pointed out as exemplary of trends that they felt were particularly helpful or problematic. They are intended to be broadly representative of a particular judge's demeanor toward survivors and domestic violence more generally. However, these examples do not constitute objective data in any strict sense.

Thumbs Down:

1. *“Let me ask you one question. You love your mother?...You love your daughter?...What are you all doing in front of me? Can't you all work this out?... You shouldn't be in front of me.”* The judge ultimately found that the petitioner had experienced three intra-family offenses at the hands of the respondent in the case and issued the Civil Protection Order.
2. In a CPO case that lasted five months, the judge refused on two separate occasions in open court to provide a written extension of the original TPO and on one of those occasions stated, *“I don't think we need a written TPO do we? The parties know to stay away from each other. We're all adults here.”* The case involved allegations of physical violence, including violence that resulted in a dislocated jaw. The petitioner had to call police on two occasions after this court hearing due to the behavior of the respondent.
3. In another case, the following exchange occurred between Judge, Petitioner, and Respondent:
Judge: *“Mr. X, do you love Ms. Y?” “Ms. Y, do you love Mr.X?” ... “I see you both are not married. I just thought, I just thought I'd mention it. I just got to mention it. You've got two children in common, you love each other, et cetera.”* Judge asks the



parties to come up to the bench together. Parties come to the bench standing within two feet of each other.

Judge: *“Do you want the relationship over?”*

Petitioner: *“Yes”*

Respondent: *“Yes”*

Conversation ensues for several minutes at the bench. This dialogue was in the transcript but not audible to the rest of the court. During that dialogue, respondent states: *“Yeah, I hit her a couple years ago in the face. But that was, like, two years ago.”*

The following occurred when the parties returned to their respective tables:

Petitioner: *“Your Honor, I don’t want him to drop the kids off. If he can get a family member or a friend...”*

Judge: *“Excuse me. You know he’s not going to hit you, right?” “Ok, so what? He, he talks too much, that’s obvious.” “...He obviously got a lot he wants to talk to you about. He really does. That’s a shame. You both say you love each other and you both, but you want him out and now he says he wants out. You ever thought about going to counseling?”*

The petitioner alleges that the respondent punched a hole in the wall when she told him she was leaving, and as she was packing to leave, he snatched a drawer out of her hand and threw it across the room in addition to his having hit her in the past, which he admitted to the judge. The judge denied the order because he believed the respondent was merely upset and didn’t intend to frighten the petitioner.

Thumbs Up:

1. *“Has anyone talked to you about a safety plan?” “Yes sir.” “Ok, so then you know you need to keep your order with you at all times. Make sure your child’s school has a copy and your younger child’s daycare has one. Change up your routes whether you drive or use public transportation. If he violates this order, call the police immediately.”*

Judge to Petitioner after issuing a default Civil Protection Order.



2. *“I believe that you have treated this young lady very badly sir. I credit her testimony and I think if you put 200 judges hearing this case, they would all credit her testimony 100%. She has no reason to lie. You cannot treat anyone that way sir, particularly your wife. It’s a crime.”* Stated while the petitioner was present in the courtroom and the respondent attempted to say that the reason he committed the violence was that she was on drugs and a bad mother.

3. *“Are you doing this freely and voluntarily?...No one is threatening you to do this?...You can come back to the court as many times as you need to. I hope it works out the way you want it to, but if something else happens, come file another order.”* Judge to Petitioner when she was dismissing the order to try to work it out with the respondent.



RECOMMENDATIONS

These recommendations are based upon the data that Court Watch gathered, and the information that advocates received from survivors throughout this process. The Court is working diligently to address some of these issues, and the fact that they are listed here does not indicate otherwise. However, some recommendations have yet to be undertaken or implemented. All of the recommendations listed below will be used as benchmarks and points of analysis for future Court Watch data collection and reports.

Since January 3, 2007, the Court has remedied many of the issues cited in this report entirely of its own volition or merely at the considered request of its Domestic Violence Intake Center partners. These changes are proof that the collaborative relationship established with the Court to ensure that survivors' needs are being met while the rights of abusers are upheld is a successful ongoing process. Where those changes have already been made, or are currently being examined by the Court, those actions will be noted in italics.

Safety:

1. A marshal should always be present in the courtroom. A petitioner and a respondent should never be left alone in a courtroom.
2. A Court Security Officer should always be stationed outside of the CPO courtroom to monitor activity in the hallway. Officers should receive additional training about protection order enforcement and the dynamics of domestic violence.
3. The exit of the parties from court should always be staggered to allow the petitioner time to leave before the respondent may leave.

Hearing Process:

1. Judicial officers should present the options (consent or hearing) neutrally, explaining the consequences of each. No preference should be expressed or pressure applied to arrive at a consent order or congratulations offered on arriving at a consent order.
2. Avoid comments indicating that domestic violence is a failure on the part of the parties to "get along." Such comments partly blame the petitioner for the abuse and allow the respondent to avoid accountability for his or her actions.



3. Petitioners and respondents should never be counseled by the judge at the bench together. Mediation has been recognized by the American Bar Association and the Council of Family Court Judges to be inappropriate and dangerous in cases where domestic violence is alleged^{xv} and the Metropolitan Police Department's General Orders on Intrafamily Offenses specifically prohibits officers from mediating when responding to domestic violence calls for service.^{xvi}

Issuing Orders:

1. If there are judicial findings, the judge should read them aloud so that the respondent understands the wrongdoing and that the judge credits the petitioner's testimony. *As of January 3, 2007, the Court reads each petition to the respondent before signing it to ensure that the respondent not only actually consented to all of the terms of the order if a consent agreement is reached, but takes great care to ensure that respondents understand what each term entails and what the possible penalty is for violating the order.*
2. The judge should explain the order in clear terms using concrete examples to clarify the extent of the order, e.g., 100 feet includes any public place regardless of which party arrived first.
3. If the order is issued, judges should tell respondents that they, and not the petitioner, can be arrested and charged with a crime for violating it.
4. Visitation for minor children should be between specific hours on specific days. A third party or a neutral location should be established to safely exchange the children. These terms should always be clearly stated in the order.
5. Avoid issuing protection orders that do not contain a 100 foot stay-away provision or an order to vacate if these terms have been requested. They are practically unenforceable by the Metropolitan Police Department and leave the petitioner without a meaningful remedy.
6. The Court should adopt a policy in which mediation and family counseling is never ordered or suggested when domestic violence has been alleged by one of the parties.

***Firearms:***

1. Judges should ask about the presence of firearms in the home and in the possession of the respondent at both the Temporary Protection Order phase and during the Civil Protection Order hearing. *As of January 3, 2007, the Court has begun asking questions about firearms and taking the issue into consideration when petitioners make the Court aware of the presence of firearms in the home or in the respondent's possession. There have been several search warrants issued for weapons alleged to be in the respondent's possession as part of a Temporary Protection Order hearing.*
2. Judges should explain that in addition to the gun control laws of the District of Columbia, the protection order that was entered requires that no firearms be owned or possessed by the respondent during the period of the protection order.^{xvii}

Temporary Protection Order Hearings:

1. Lunch hours for judges should be staggered so that there is adequate coverage for Temporary Protection Order hearings to avoid the daily two-and-a-half-hour wait at the Court. *As of January 3, 2007, the Court created a schedule that both allows judges to take an adequate lunch hour, and leaves enough coverage for Temporary Protection Order Hearings. The lunch time backlog in the DV Unit Clerk's Office has been greatly reduced as a result.*
2. Domestic Violence Temporary Protection Orders should be considered urgent, emergency matters both at the Superior Court in Northwest and at the Southeast Center. Judges should always be available to hear cases from the Southeast Center to prevent the excessively long waits experienced by petitioners seeking assistance there. *The Court has increased its accessibility so that petitioners arriving late in the day or seeking services at Greater Southeast Community Hospital do not encounter instructions to return the following day to see a judge. This increases their actual safety as well as their faith that their case is taken seriously.*



3. The Court should invest in more up-to-date technology such as web cameras to ease the burden on judges who are required to hear TPOs from the DVICE. In lieu of more sophisticated technology, telephonic hearings should be relied upon to ensure that delays do not occur.

Continuances and Dismissals:

1. The Court should avoid commenting on the misuse of judicial resources and time, or those of the Metropolitan Police Department, in hearing cases multiple times for one party or serving the respondent multiple times. The Court and the Metropolitan Police Department receive specific grant funds to allow for the average five to seven times that a domestic violence victim will return to the abuser before leaving for good. Indications that he or she is somehow wasting valuable resources suggest that the problem is not worth the resources.
2. If a petitioner requests that the order be dismissed, the judge should perform an inquiry as to why the order is being dismissed, including whether the request is voluntary, and whether there are time or resource issues that could be remedied in some other way.
3. Judges should emphasize that petitioners may file another order or come back to court as many times as necessary without penalty to convey that the petitioner's safety, rather than judicial efficiency, is the first concern.

Failure to Appear:

1. Advocates should call their clients who did not appear immediately after court to determine the reasons for not returning to court and to ensure that they are safe.
2. Judges should not penalize and take care when questioning petitioners about their reasons for not returning to court upon seeing them next to ensure that disapproval is not communicated.

Training:



All judges and magistrate judges entering the Domestic Violence Unit should receive training about the following:

1. The dynamics of domestic violence, the prevailing research about the issue, best practices recommended by the Council of Family Court Judges and the American Bar Association, and a statistical portrait of domestic violence in the District of Columbia.
2. Teen dating violence and the remedies available to minors.
3. Mental illness and domestic violence.
4. Batterer tactics and measures and methods of perpetrator accountability.
5. Stalking and harassment.



FUTURE DIRECTION OF DC COURT WATCH

The recommendations made in this report are intended to spark discussion and are also intended as measures and direction for future Court Watch data. In the unique collaborative environment that the Domestic Violence Unit provides, this information will allow all stakeholders to determine areas for improvement and will allow survivors to have a voice in the court process long after their cases have been heard. To this end, Court Watch will undertake the following modifications and actions:

1. Expand on February 1, 2007 to include Temporary Protection Order hearings.
2. Modify our data collection instrument for Civil Protection Order cases to capture the information missing and questions raised in this report.
3. Develop a component of the data collection that includes survivor interviews and feedback.
4. Publish a report every four months focused on a specific topic to more thoroughly explore issues raised in the data and inform the relevant actors of events in the Unit in a more timely fashion.
5. Maintain a web page exclusively to report on developments in the Domestic Violence Unit and relevant judicial matters pertaining to domestic violence, both local and national, more generally.
6. Work with the Court to ensure that fathers with a history of domestic violence, reported or unreported, are not referred to the newly formed Fathering Court Pilot Project in Family Court.



FUTURE ADVOCACY EFFORTS

Conclusion: Future Focus

During the reporting period, the Domestic Violence Unit experienced extremely high rates of dismissals – as high as 59% of all CPO cases heard in any given month.^{xviii}

According to Court Watch data, this dismissal rate is primarily due to two factors: failure of the petitioner to appear for the hearing, and dismissals at the petitioner's request. There are many reasons that a petitioner may fail to return to court, chief among them that the petitioner and respondent have reconciled, he or she cannot take time off from work, or they have been intimidated by the respondent or the respondent's family to drop the case by not returning to court. Depending on the level of protection the victim perceives from the system, she may believe that the safest option is to return to the batterer. The victim may convince themselves that the batterer will change or that this time around will be different because the victim can just learn to get along with the batterer.

To better pinpoint the role of the system and of individual advocacy efforts in a victim's decision not to return to court, the Court Watch Project will include this issue in its next report. In this way, the complexity of the above-mentioned factors might be teased apart to provide a more accurate picture of what survivors are experiencing and where we can better assist them. Other issues that Court Watch will explore in detail in upcoming reports are the prevalence of firearms use in domestic violence cases as reported to the DVICs and the Court, and the impact of the use of Crime Victim's Compensation resources by petitioners in Temporary and Civil Protection Order hearings and dispositions. The above-listed recommendations will also be used as benchmarks in all future reports to provide consistency in the measure of safety for victims and accountability for perpetrators of domestic violence in DC Superior Court.

Through objective reporting of proceedings in the Domestic Violence Unit, and focusing on specific issues that arise from that data, such as petitioner's failure to appear, we hope that public trust in this institution will increase, survivors and respondents will feel that the process is fair, and that safety and accountability will remain the Court's priority. Transparency maintains the legitimacy of any governing body, and the Court is no exception. Domestic violence survivors rely on the Court and its support systems to treat their cases

with an urgency and perspective that is often alien to strict legal thinking and the usual pace of the judicial process. We hope that this report will expand the dialogue about these important issues within the community and with the Court.



END NOTES

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^{ix} DC Superior Court Annual Reports 2004-2006; District of Columbia Office of the Attorney General, 2006.

^x Metropolitan Police Department, 2004-2006.

^{xi} Ibid.



END NOTES *continued*

^{xii} Domestic Violence Intake Center, 2004-2006.

^{xiii} Lethality Assessment Tools: A Critical Analysis by Neil Websdale (April 1999) National Resource Center on Domestic Violence. Dutton, Donald G.; and P. Randall Kropp. 2000. A Review of Domestic Violence Risk Assessments. *Trauma, Violence, & Abuse*, Vol. 1, No. 2, 171-181.

^{xiv} Strauss, Murrya A., Richard J. Gelles, and Christine Smith. Physical Violence in American Families; Risk Factors and Adaptations to Violence in 8,145 Families. New Brunswick: Transaction Publishers, 1990. Barnett, O.W. Why Battered Women Do Not Leave, Parts 1 & 2: External Inhibiting Factors? Social Support and Internal Inhibiting Factors. *Trauma, Violence, and Abuse*, 2, 3-35.

^{xv} Mediation and Domestic Violence Policy Adopted by the American Bar Association House of Delegates July 2000 http://www.abanet.org/domviol/med_reccomend.html; Andrew Schepard Editor (2006) Family Court Review, 44(4), 511-512. October 2006.

^{xvi} Metropolitan Police Department, General Order on Intrafamily Offenses and Mandatory Arrest: GO-OPS-304.11 Section IV, Paragraph B: "Members shall not use dispute resolution or mediation to resolve intrafamily offense calls for service." Pg. 3.

^{xvii} The Supervisor's Committee of the Domestic Violence Intake Centers is currently gathering information and developing a policy to allow gun owners to turn in their weapons to comply with federal law under United States Code, Title 18 Section 908(a), which states that an individual subject to a Civil Protection Order in a domestic violence case is not permitted to own or possess a weapon for the duration of that order.



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APPENDIX

ALLEGATIONS

Petitioner Alleged

- Assault Sexual Assault Kidnapping Stalking Harassment
- Burglary Criminal Trespass Drugs Alcohol Weapon Involved
- Child Abuse Child/ren Present Child/ren Involved Other

Respondent Alleged

- Assault Sexual Assault Kidnapping Stalking Harassment
- Burglary Criminal Trespass Drugs Alcohol Weapon Involved
- Child Abuse Child/ren Present Child/ren Involved Other

How did **respondent** respond to allegations? Admit Admit with qualifications Deny
 How did the **petitioner** respond to allegations? Admit Admit with qualifications Deny

EVIDENCE

Testimony: By Petitioner By Respondent Both
 Lay Witness: For Petitioner For Respondent Both
 Police Officer: For Petitioner For Respondent Both

Other: _____

Was any evidence offered but refused? Yes No

If yes, describe the evidence: _____

JUDICIAL BEHAVIOR and COURT ROOM DECORUM

ATTITUDE TOWARDS PETITIONER/RECONDENT	Petitioner			Respondent		
	Yes	No	N/A	Yes	No	N/A
Judge Patient with Petitioner/Respondent						
Judge Interrupted Petitioner/ Respondent						
Judge Answers Questions Fully						
Judge Showed Visible Signs of Disapproval						
Judge Reprimanded Petitioner/Respondent						

If yes, please describe:

Did the Judge establish rules for the proceedings? Yes No
 If yes, were those rules followed? Yes No
 Was the court staff attentive to the proceedings? Yes No
 Were the proceedings audible? Yes No

Please make note of any questions/statements directed at the parties; and/or any additional comments or observations made by or about the parties, judge and/or counsel during any stage of the proceedings.

DC Intrafamily Offense Statute

DC ST § 16-1001

Formerly cited as DC ST 1981 § 16-1001

**District of Columbia Official Code 2001 Edition Currentness
Division II. Judiciary and Judicial Procedure**

Title 16. Particular Actions, Proceedings and Matters. (Refs & Annos)

Chapter 10. Proceedings Regarding Intrafamily Offenses. (Refs & Annos)

Subchapter I. Intrafamily Proceedings Generally. (Refs & Annos)

§ 16-1001. Definitions.

For purposes of this subchapter:

(1) The term "complainant" means an individual in the relationship described in paragraph (5) who is the victim of an intrafamily offense and who files or for whom is filed a petition for protection under this subchapter.

(2) The term "Director of Social Services" means the Director of Social Services in the Superior Court of the District of Columbia.

(3) The term "Family Division" means the Family Division of the Superior Court of the District of Columbia.

(4) The term "family member" includes any individual in the relationship described in paragraph (5).

(5) The term "intrafamily offense" means an act punishable as a criminal offense committed by an offender upon a person:

(A) to whom the offender is related by blood, legal custody, marriage, having a child in common, or with whom the offender shares or has shared a mutual residence; or

(B) with whom the offender maintains or maintained a romantic relationship not necessarily including a sexual relationship. A person seeking a protection order under this subparagraph shall reside in the District of Columbia or the underlying intrafamily offense shall have occurred in the District of Columbia.

DC Intrafamily Offense Statute

(6) The term "respondent" means any person who is accused of having committed an intrafamily offense in a petition for protection filed under this subchapter.

DC ST § 16-1002

Formerly cited as DC ST 1981 § 16-1002

District of Columbia Official Code 2001 Edition Currentness

Division II. Judiciary and Judicial Procedure

Title 16. Particular Actions, Proceedings and Matters. (Refs & Annos)

Chapter 10. Proceedings Regarding Intrafamily Offenses. (Refs & Annos)

Subchapter I. Intrafamily Proceedings Generally. (Refs & Annos)

§ 16-1002. Complaint of criminal conduct; referrals to Family Division.

(a) If, upon the complaint of any person of criminal conduct by another or the arrest of a person charged with criminal conduct, it appears to the United States Attorney for the District of Columbia (hereafter in this subchapter referred to as the "United States attorney") that the conduct involves an intrafamily offense, he shall notify the Director of Social Services. The Director of Social Services may investigate the matter and make such recommendations to the United States attorney as the Director deems appropriate.

(b) The United States attorney may also (1) file a criminal charge based upon the conduct and may consult with the Director of Social Services concerning appropriate recommendations for conditions of release taking into account the intrafamily nature of the offense; or (2) refer the matter to the Corporation Counsel for the filing of a petition for civil protection in the Family Division. Prior to any such referral, the United States attorney shall consult with the Director of Social Services concerning the appropriateness of the referral.

(c) The institution of criminal charges by the United States attorney shall be in addition to, and shall not affect the rights of the complainant to seek any other relief under this subchapter. Testimony of the respondent in any civil proceedings under this subchapter and the fruits of that testimony shall be inadmissible as evidence in a criminal trial except in a prosecution for perjury or false statement.

DC Intrafamily Offense Statute

DC ST § 16-1003

Formerly cited as DC ST 1981 § 16-1003

**District of Columbia Official Code 2001 Edition Currentness
Division II. Judiciary and Judicial Procedure**

Title 16. Particular Actions, Proceedings and Matters. (Refs & Annos)

Chapter 10. Proceedings Regarding Intrafamily Offenses. (Refs & Annos)

Subchapter I. Intrafamily Proceedings Generally. (Refs & Annos)

§ 16-1003. Petition for civil protection.

(a) Upon referral by the United States attorney, or upon application of any person or agency for a civil protection order with respect to an intrafamily offense committed or threatened, the Corporation Counsel may file a petition for civil protection in the Family Division. In the alternative to referral to the Corporation Counsel, a complainant on his or her own initiative may file a petition for civil protection in the Family Division.

(b) In any matter referred to the Corporation Counsel by the United States attorney in which the Corporation Counsel does not file a petition, he shall so notify the United States attorney.

(c) Whenever a petition is filed by a complainant at his or her initiative or whenever private counsel enters an appearance in a case originally petitioned by the Corporation Counsel, the complainant or his or her counsel shall promptly notify the Corporation Counsel regarding the filing or entry of appearance.

(d) An action for an intrafamily offense under section 16-1001(5)(B) shall not be brought more than 2 years from the date the right to maintain the action accrues.

DC Intrafamily Offense Statute

DC ST § 16-1004

Formerly cited as DC ST 1981 § 16-1004

**District of Columbia Official Code 2001 Edition Currentness
Division II. Judiciary and Judicial Procedure**

Title 16. Particular Actions, Proceedings and Matters. (Refs & Annos)

Chapter 10. Proceedings Regarding Intrafamily Offenses. (Refs & Annos)

Subchapter I. Intrafamily Proceedings Generally. (Refs & Annos)

§ 16-1004. Petition; notice; temporary order.

(a) Upon a filing of a petition for civil protection by the Corporation Counsel or by a complainant, the Family Division shall set the matter for hearing, consolidating it, where appropriate, with other matters before the Family Division involving members of the same family.

(b) With respect to a petition for civil protection filed by the Corporation Counsel, the Family Division shall cause notice of the hearing to be served on the respondent, the complainant and, if appropriate, the family member endangered (or, if a child, the person then having physical custody of the child), the Director of Social Services, and the Corporation Counsel. The respondent shall be served with a copy of the petition together with the notice and shall be directed to appear at the hearing. The Family Division may also cause notice to be served on other members of the family whose presence at the hearing is necessary to the proper disposition of the matter.

(c) With respect to a petition for civil protection filed by a complainant himself or herself, the complainant, pursuant to the Rules of the Superior Court of the District of Columbia, shall cause notice of the hearing and a copy of the petition to be served upon the respondent and any other members of the family whose presence at the hearing is necessary to the proper disposition of the matter. Pursuant to the Rules of the Superior Court of the District of Columbia, the complainant shall also cause a subpoena to issue directing the respondent to appear at the hearing.

(d) If, upon the filing of a petition under oath, the Division finds that the safety or welfare of a family member is immediately endangered by the respondent, it may, ex parte, issue a temporary protection order of not more than 14 days duration and direct that the order be served along with the notice required by this section; provided, that a petition for civil protection be filed together with the petition for a temporary protection order and a

DC Intrafamily Offense Statute

hearing be commenced on the petition for civil protection prior to the expiration of the temporary protection order.

DC ST § 16-1005

Formerly cited as DC ST 1981 § 16-1005

**District of Columbia Official Code 2001 Edition Currentness
Division II. Judiciary and Judicial Procedure**

Title 16. Particular Actions, Proceedings and Matters. (Refs & Annos)

Chapter 10. Proceedings Regarding Intrafamily Offenses. (Refs & Annos)

Subchapter I. Intrafamily Proceedings Generally. (Refs & Annos)

§ 16-1005. Hearing; evidence; protection order.

(a) Members of the family receiving notice shall appear at the hearing. In addition to the parties, the Corporation Counsel and the Director of Social Services may present evidence at the hearing in cases where the petition was filed by the Corporation Counsel.

(b) Notwithstanding section 14-306, in a hearing under this section, one spouse shall be a competent and compellable witness against the other and may testify as to confidential communications, but testimony compelled over a claim of a privilege conferred by such section shall be inadmissible in evidence in a criminal trial over the objection of a spouse entitled to claim that privilege.

(c) If, after hearing, the Family Division finds that there is good cause to believe the respondent has committed or is threatening an intrafamily offense, it may issue a protection order --

(1) directing the respondent to refrain from the conduct committed or threatened and to keep the peace toward the family member;

(2) requiring the respondent, alone or in conjunction with any other member of the family before the court, to participate in psychiatric or medical treatment or appropriate counseling programs;

(3) directing, where appropriate, that the respondent avoid the presence of the family member endangered;

DC Intrafamily Offense Statute

(4) directing a respondent to refrain from entering or to vacate the dwelling unit of the complainant when the dwelling is (A) marital property of the parties; or (B) jointly owned, leased, or rented and occupied by both parties; provided, that joint occupancy shall not be required if a party is forced by the respondent to relinquish occupancy; or (C) owned, leased, or rented by the complainant individually; or (D) jointly owned, leased, or rented by the complainant and a person other than the respondent;

(5) directing the respondent to relinquish possession or use of certain personal property owned jointly by the parties or by the complainant individually;

(6) awarding temporary custody of a minor child of the parties;

(7) providing for visitation rights with appropriate restrictions to protect the safety of the complainant;

(8) awarding costs and attorney fees;

(9) ordering the Metropolitan Police Department to take such action as the Family Division deems necessary to enforce its orders;

(10) directing the respondent to perform or refrain from other actions as may be appropriate to the effective resolution of the matter; or

(11) combining two or more of the directions or requirements prescribed by the preceding paragraphs.

(c-1) For the purposes of subsection (c)(6) and (7) of this section, if the judicial officer finds by a preponderance of evidence that a contestant for custody has committed an intrafamily offense, any determination that custody or visitation is to be granted to the abusive parent shall be supported by a written statement by the judicial officer specifying factors and findings which support that determination. In determining visitation arrangements, if the judicial officer finds that an intrafamily offense has occurred, the judicial officer shall only award visitation if the judicial officer finds that the child and custodial parent can be adequately protected from harm inflicted by the other party. The party found to have committed an intrafamily offense has the burden of proving that visitation will not endanger the child or significantly impair the child's emotional development.

(d) A protection order issued pursuant to this section shall be effective for such period up to one year as the Family Division may specify, but the Family Division may, upon motion of any party to the original proceeding, extend, rescind, or modify the order for good cause shown.

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(e) Any final order issued pursuant to this section and any order granting or denying extension, modification, or rescission of such order shall be appealable.

(f) Violation of any temporary or final order issued under this subchapter, or violation in the District of Columbia of any valid foreign protection order, as that term is defined in subchapter IV of this chapter, and respondent's failure to appear as required by § 16-1004(b), shall be punishable as contempt. Upon conviction, criminal contempt shall be punished by a fine not exceeding \$1,000 or imprisonment for not more than 180 days, or both.

(g) Any person who violates any protection order issued under this subchapter, or any person who violates in the District of Columbia any valid foreign protection order, as that term is defined in subchapter IV of this chapter, shall be chargeable with a misdemeanor and upon conviction shall be punished by a fine not exceeding \$1,000 or by imprisonment for not more than 180 days, or both.

(h) For purposes of establishing a violation under subsections (f) and (g) of this section, an oral or written statement made by a person located outside the District of Columbia to a person located in the District of Columbia by means of telecommunication, mail, or any other method of communication shall be deemed to be made in the District of Columbia.

(i) Orders entered with the consent of the respondent but without an admission that the conduct occurred shall be punishable under subsection (f) or (g) of this section.