
Public Meeting

of

ASSEMBLY POLICY AND REGULATORY OVERSIGHT COMMITTEE

“Issues surrounding the ‘Prevention of Domestic Violence Act of 1991’”

LOCATION: Committee Room 16
State House Annex
Trenton, New Jersey

DATE: May 16, 1996
10:30 a.m.

MEMBERS OF COMMITTEE PRESENT:

Assemblywoman Rose M. Heck, Chairwoman
Assemblywoman Carol J. Murphy
Assemblyman Kevin J. O’Toole
Assemblyman LeRoy J. Jones Jr.
Assemblywoman Loretta Weinberg
Assemblywoman Diane Allen
Assemblyman Anthony Impreveduto

ALSO PRESENT:

Katharine A. Tasch
William J. O’Brien
Glenn E. Moore III
Office of Legislative Services
Aides, Assembly Policy and
Regulatory Oversight Committee



Meeting Recorded and Transcribed by
The Office of Legislative Services, Public Information Office,
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ASSEMBLYWOMAN ROSE MARIE HECK (Chairwoman):

I'd ask that everyone please take their place. I'm going to make an opening presentation. I expect one or two more people to sit on the dias, but we will begin because, I am very pleased to say, we have a lot of people testifying today.

I think it's going to be a very important day for us, and I welcome everyone who has shown up here today knowing that this can have some very positive effects. We will also learn about what is happening in the State.

Today's meeting by the Assembly Policy and Regulatory Oversight Committee is no accident. It is in direct response to a plea of help issued by Channel 9 and a Hudson County victim of domestic violence.

In April, my office received a call which indicated that there were some questions about the manner in which Fatima DiParola was treated in response to her surviving an attempted murder. Questions relating to her case in Jersey City raised concerns of my own.

As the prime sponsor of the bipartisan legislative reforms in 1994, which promoted the domestic violence reforms to the 1991 Domestic Violence Prevention Act, I wanted to know how the laws were being enforced; if the victims and their advocates were benefitting from the changes. I don't want any woman, child, or elderly person falling between the cracks because of training that didn't occur, or an unwillingness to enforce the law, or a misinterpretation of that law.

I am grateful to the Administrative Office of the Courts for fully cooperating with my staff in setting up today's meeting. We need to conduct an assessment of the judicial training, and this openness signifies to me that

there is a partnership in place to make certain we are doing our best to protect the people. I want to make certain that the training required under A-286, which was signed into law by Governor Whitman, is fully implemented.

The representatives of the Attorney General's Office, the Administrative Office of the Courts, and the Division of Criminal Justice are joined by representatives such as county prosecutors, victims' advocates, and domestic violence reform organizations. This broad cross section of representatives will help all of us understand the programs in place and what, if anything, needs to be changed.

One of the premeeting articles noted that volunteer crisis teams cannot be trained fast enough to assist municipalities in their efforts to help victims understand their rights.

I want to ask the prosecutors who are testifying today how the training efforts are coordinated with victims' witness advocacy representatives, domestic violence shelters, and all the other advocates. I want to ascertain whether or not the victims and their advocates are part of the process in each of the 21 counties.

On the issue of restraining orders, it has been brought to my attention that there might be some judges who do not want to issue restraining orders for the first-time victims.

I am quoting from Jackie Marich, the Executive Director of the Middlesex County Women's Shelter: "I hear the same things said about attempted murder. This is a first-time offense. We have to plea-bargain it down."

Let me say something loud and clear today: I don't care if a violent man attempts to kill his wife and it is a first offense. I don't care if a violent person beats a mother or a father and it is a first offense. Beating women, children, and the elderly is unacceptable, period. Maybe if we held these offenders accountable with longer terms and with restraining orders, we can eliminate some of the violence so we may better protect the innocent, whether they be men, women, or children. It doesn't matter. They are victims.

Today, I want to hear how we can do more to prevent the violence. I would like to learn about the reporting of incidents perpetrated against our young people. As you will recall, our laws moved to change age restrictions and that is a good thing.

Finally, some attorneys representing abusers have been quoted as saying that the law favors victims. Frankly, I find that statement outrageous and unbelievable. No one who beats a woman, child, or an elderly person has the right to receive any favoritism.

When I Chaired the Assembly Advisory Council on Women, we held hearings all through the State where hundreds of women attended and testified about their abuse. Nicole Brown Simpson's murder sent shock waves throughout the country and reminded us that domestic violence affects every sector of society: the affluent, the poor, the old, the young, all races, all religions, all people.

Today, we will hear from representatives from the New Jersey Coalition for Battered Women, Shelter Our Sisters, Jersey Battered Women's

Services, and Alternatives to Domestic Violence and learn about their concerns.

Today's meeting represents a new beginning. We will listen, and we will learn -- learn of the progress that we have made in various areas and what else we can do to improve the ways in which we support and protect our victims.

To the women who are abused and beaten every eight seconds in America: I ask you to continue to report those crimes and stand up to your abusers. Call for help. Reach out to your police, your legislators, your churches, and your community. All of us care about each of you. We want to stop the violence.

Unless there are further questions or statements from any of the panel members, I would like to call on Nancy Kessler.

Yes, Kevin?

This is Kevin O'Toole.

ASSEMBLYMAN O'TOOLE: Thank you, Chairwoman.

I just want to commend you for presenting this forum for the individuals who have an interest in discussing some of the concerns they have with the Prevention of Domestic Violence Act of 1991.

Just by a moment of background: last year, I received a frantic phone call from my wife while I was at work. She indicated that she had been, once again, accosted by her former boyfriend. It kind of brings in living color some of the events that occur to everyday individuals here in the State.

While crying over the phone, she indicated to me that she couldn't take it anymore. She had been -- over the last year -- besieged with phone calls

in our household. We had many threatening phone calls. Our home was broken into. We couldn't pinpoint -- or relate, perhaps -- if, in fact, the former boyfriend was involved with that, but the straw that broke the camel's back was when he randomly accosted her at a restaurant and threatened to kill her after chasing her around the parking lot and threatened to kill me, as well, being that I was her spouse.

We went to the North Arlington Police Department. We filed charges. We got a temporary restraining order. I will tell you that the police officers and the authorities at that township were very sensitive, understood the law as I understood it, and were very cooperative.

I will tell you that I couldn't ask anything more from-- It was the Mayor, the Police Chief, and the police department. I was very satisfied with the treatment that was given to both my wife and I; however, it didn't hold up.

We went to Bergen County the following month to get a restraining order beyond the temporary one. We were presented before a judge who, in a very summarily fashion, basically dismissed the complaint and said, "You're married now. You're not involved in a relationship. This is not a domestic violence complaint."

I will tell you, as a husband, I was outraged as my wife sat there in total disbelief that the system had failed her. I am in agreement with her that the system did fail her. She doesn't stand alone with that. She stands with thousands of women, and I suspect some men and some children, who have been victims of a failed system.

Sitting here today, Chairwoman, I want to thank you and thank this panel for taking the time to study how we can fix the system so there will

be no failures in the future, not only for my wife and for children, but for other wives, other husbands, and other victims who are out there.

I think the intent of the law was the protection of domestic violence victims, and I think that intent should be renewed here. For those judges who have a problem -- whether it be in Middlesex or Bergen -- perhaps we could instruct either legislatively how they could be more sensitive to the victims in the intent of this legislation.

Thank you very much.

ASSEMBLYWOMAN HECK: Thank you, Kevin.

There are people here today who can properly address that. That is one of the reasons we are here: to make sure we have standards that are being met throughout all of the counties and that we don't leave it to chance as far as those interpretations are concerned and be specific.

Does anyone else wish to make a statement? (no response)

We have a number of people here. I thank you all. Again, I welcome the cosponsor of a number of our bills, Assemblywoman Loretta Weinberg, who is also from Bergen County, and, of course, Assemblywoman Diane Allen, who is also involved with domestic violence bills -- some coming up soon, I hope -- very important ones. Loretta and I testified the other day before Law and Public Safety and had some bills released.

Assemblyman Impreveduto, I'm very pleased that you're sitting in for Neil Cohen today, and, of course, Assemblyman Jones. I think this is going to be quite an interesting meeting.

One of the things, I think, of importance is the fact--

Nancy, you're here, and I know you have with you Jeff Kuhn, who is the Assistant Director of AOC. Judge Serpentelli could not be here today due to a medical emergency. Jeff is here.

Nancy, you're here, so if you will come forward.

Nancy helped us put together many of the laws that we had in 1994. There must have been almost a dozen people and attorneys who helped us do that. Nancy was instrumental in pulling it all together for us, and we appreciate that.

What we see now -- and I'll just say this -- is that there are little glitches in that law that have to be refined. We would like everyone to take note that we will be looking at this very seriously about improving some of the loopholes that exist, such as in Kevin's situation, because this is hard to understand.

I will give the floor to you, Nancy and Jeff.

JEFFREY A. KUHN, ESQ.: Thank you, Assemblywoman Heck, and members of the Oversight Committee.

My name is Jeffrey Kuhn, as Chairwoman Heck had mentioned. I am the Assistant Director for the Administrative Office of the Courts, specifically with responsibility for the Family Practice Division.

With me is my Division Chief, Nancy Kessler, who has administrative oversight responsibility for domestic violence cases and matters within the Administrative Office of the Courts.

On behalf of Chief Justice Wilentz and Administrative Director Lipscher, we thank you for the opportunity to appear before you today. I would like to note the absence of Assignment Judge Gene Serpentelli, from

Ocean County, who had intended to be with you today. Due to a family medical emergency, he was not able to be here.

For that reason, I have asked Nancy to share with you today recent developments concerning increased workload training and coordination with three primary oversight areas that this Committee has identified through section and comment by the judiciary this morning.

Nancy.

NANCY KESSLER, ESQ.: Thank you, Chairwoman Heck, for your remarks.

Is this working? (referring to microphone)

ASSEMBLYMAN IMPREVEDUTO: Press the button and the red light will come on.

MS. KESSLER: Thank you.

Before I start, I'd just like to make clear that my dark glasses signify no disrespect or anything else. Medical emergencies seem to be the order of the day with the judiciary. I was scratched by a kitten and my eye is infected, so I just wanted to be clear about that.

With regard to an increase in filings-- I'm going to distribute a copy of what I'll be saying, so you'll have it available to you if you have questions.

With regard to an increase in filings: In response to the overwhelming need to strengthen the legal protections available to victims of domestic violence and their families, the Prevention of Domestic Violence Act was amended, as everyone knows, in 1991 and 1994 to increase both the scope of these protections and the class of victims covered by the Act.

Since 1991, there has been a tremendous growth in requests for civil protection, in particular, and in the number of cases being heard by the Family Division of the Superior Court and by the municipal courts. The number of filings for civil relief increased from 36,054 in court year 1991 -- which was the time period immediately proceeding the first series of amendments -- to 48,492 in court year 1992 -- during which time the 1994 amendments took effect. That is actually court year 1993, I'm sorry -- which represented an increase of more than 34 percent over a two-year period. During the next two court years, filings continued to increase at a rate in excess of 10 percent and jumped to 63,465 in court year 1995.

This growth has continued during court year 1996 -- which, for those of you who are not familiar with the peculiar manner in which we establish court years, will end at the end of June. Projections based on the first 10 months of this court year lead us to believe that filings for the complete court year will approach 70,000. That is an additional increase of 10 percent, and our projections indicate that we will come close to 77,000 in court year 1997.

Just as a point of information, this only includes the initial requests for civil protection. This does not include the requests for enforcement through the contempt process, and this does not include all of the criminal matters arising out of domestic violence situations.

So I am now only talking about requests for civil restraining orders that are initiated in the Family Division during the day or through the municipal court in the evening, on weekends, or on holidays.

ASSEMBLYWOMAN HECK: So we're talking about the 36,000 covering the same amount--

MS. KESSLER: It started out as 36,000, yes.

ASSEMBLYWOMAN HECK: We've doubled?

MS. KESSLER: Yes, absolutely. It will have almost doubled by the end of this court year, yes.

This enormous increase in volume and the resulting drain on judiciary resources was recently noted in the report of the Supreme Court's Committee on Efficiency, which many of you may have seen reported in the newspapers.

"Since the time of the 1991 and 1994 amendments" -- and I'm quoting from the report -- "there has been a tremendous growth in the number of cases the courts are required to hear and the burden of the courts has been staggering. While court managers have reallocated resources needed elsewhere to address this growing caseload, extra judicial resources are needed.

"All branches of government must combine to provide resources to this problem, and specifically, more State funds must be obtained for the courts so that they can handle the volume of domestic violence cases that the Legislature has added to their workload by expanding the courts' jurisdiction in this area." This is certainly something that we have discussed many times.

One innovation -- to try to talk about positive things that have been done to meet the burden -- that the judiciary has developed to respond to its increased workload in the area of domestic violence is the use of specially trained domestic violence hearing officers to handle emergency hearings -- which are TRO hearings -- in the Family Division.

Following successful pilot tests of the concept in Hudson and Ocean Counties, the Supreme Court has approved statewide expansion of the program on a phased-in basis. The Committee on Efficiency, in recognition of the multiple benefits of this program -- which include freeing up bench time while maintaining or increasing the level of access and service provided to victims -- has recommended that: "The judiciary should be prepared, once additional funding is supplied, to implement this program on a statewide basis." We have made such note in our budget request.

On the topic of training, which I know is of particular interest today: Following the 1991 and 1994 amendments to the Prevention of Domestic Violence Act, the judiciary and the Department of Law and Public Safety coordinated and conducted statewide and regionally based training sessions for judges, judiciary staff, law enforcement personnel, prosecutors, and an array of service providers and advocates.

The judiciary has also expanded the domestic violence components of our existing training mechanisms to cover the topics specified in the Prevention of Domestic Violence Act in a timely manner. The various mechanisms that I'm about to mention are all conducted on, at least, a yearly basis.

Our training for new and newly assigned Superior Court judges, new Superior Court and probation staff, new municipal court judges, and new municipal court administrators and staff have all been expanded to include at least half a day on the legal and procedural aspects of the protective process, as well as the dynamics of violence and the array of services available to victims and their families.

Our annual Superior Court and Municipal Court Judicial College curricula have also been expanded -- this is in addition to the training for new and newly assigned people -- to include double-session domestic violence update workshops -- double session meaning they are three-hours long -- that provide a forum for in-service enrichment, because we don't want to limit ourselves and know that we don't have the option to limit ourselves to new training, but that we have an expectation to have in-service training on a regular basis.

We hope to offer similar opportunities for in-service enrichment at future staff colleges, as well, and at future Family Division or Criminal Division retreats as necessary.

Then, finally, we are in the process of designing a domestic violence training module that can be videotaped and made available to all new or newly assigned judges before they even begin work on these cases, along with the *Domestic Violence Bench Manual* -- which, by the way, includes the *Domestic Violence Procedures Manual* that has been made an exhibit which you will have later -- which is currently distributed to all judges following their appointment or transfer. We're going to be using similar strategy for new staff, and that will be based on the comprehensive training program we give staff, as I described earlier.

In other words, what we're going to do is we're going to use mass media and the wonders of videotaping to make the same quality of information available on an individual basis to people who come to the bench or who come as staff people when we are not on the verge of offering the regular training, so they don't have to wait three months, six months, or even three weeks before

they have the information available. They will have that information -- once we accomplish this task -- before they ever start their work.

Okay, the last thing I wanted to touch on is coordination. In its report, the Committee on Efficiency recognized the extensive joint efforts of the judiciary and the Department of Law and Public Safety in the area of domestic violence. These are the comments of the Efficiency Committee:

“The Committee applauds the interagency cooperation and leadership evidenced by the judiciary and the Department of Law and Public Safety in their joint efforts at domestic violence protection and prevention and joint sponsorship of numerous training and education efforts throughout the State.

“The Committee urges the Chief Justice and the Attorney General to continue their personal commitment to this proactive approach, which, in turn, serves as a model for similar commitment and cooperation throughout the ranks of their respective organizations.”

The judiciary is committed to continuing this partnership with the executive branch and with the legislative branch by making every effort to comply with both the letter and the spirit of the Prevention of Domestic Violence Act. The State Domestic Violence Working Group, which was recognized as a standing Supreme Court committee in 1994, will continue to serve as an interbranch, intergovernmental, interagency forum for identifying and resolving problems in the domestic violence protective process.

We will also continue our active involvement in a variety of other committees, including the VAWA Advisory Committee, the Advisory Council

on Domestic Violence, and the Advisory Committee to the Office for the Prevention of Violence Against Women.

We would be happy to respond to any questions or comments you may have at this point.

ASSEMBLYWOMAN HECK: Thank you, Nancy.

The first thought that came to my mind, Nancy, was: We know that you are using municipal courts. Now, are the judges in municipal court also receiving that training?

MS. KESSLER: Yes, they have. When a judge is appointed to the municipal court, they go to a new judges' training, and a half day is devoted to domestic violence training. It used to be shorter than that, but we've prevailed on them. They also get -- before they ever start their work -- a whole host of written materials with regard to the cycle of violence, with regard to the law, with regard to case law.

But at the training we have a person who is a psychologist and a service provider who spends a great deal of time going into the dynamics of domestic violence and answering questions that people ask, I suppose, with the best of intentions, but without a lot of knowledge like: Why don't victims leave if they don't like the situation? Why do they keep dismissing orders? Isn't there any way we can stop them from using the systems inappropriately? We hear all the same questions that, I'm sure, you hear. We spend a great deal of time giving them--

ASSEMBLYWOMAN HECK: Which tells the story that they don't understand the situation.

MS. KESSLER: Well, that is why, right up front, I would agree. I guess they've been fortunate enough not to have been in that position, because, certainly, once you have been, you understand the situation loud and clear.

ASSEMBLYWOMAN HECK: I'm sure Kevin does.

MS. KESSLER: Yes, I'm sure, and there are many, many of us who do, I think.

At any rate, we try to have-- The reason we have a person there who has that background is that that person is able to go through the dynamics and to talk about the way victims feel throughout the process so that, perhaps, they are given a different perspective.

I said it was a half-day training. Actually, this year we did something new. It was a full day.

ASSEMBLYWOMAN HECK: Oh, really.

There are so many complexities in each case. We put it under the heading "Domestic Violence," but there are little nuances, little differences in each case and that makes it complex.

What I want to ascertain with you is: We've heard that not all the judges agree to take this training. Is that factual?

MS. KESSLER: That is not correct.

ASSEMBLYWOMAN HECK: Are they taking it?

MS. KESSLER: The new training is mandatory. Any new or newly assigned judge must attend the training. In addition to that, with regard to the in-service training we offer, when the law was amended in 1994, we had

special workshops. In fact, we had a full morning plenary session about the domestic violence situation.

ASSEMBLYWOMAN HECK: And sitting judges--

MS. KESSLER: Every judge was required to be there, and every--

ASSEMBLYWOMAN HECK: Even sitting judges?

MS. KESSLER: All judges.

ASSEMBLYWOMAN HECK: All judges.

MS. KESSLER: Yes. They get three days off in order to be enlightened and enriched, and the price they pay for that is they have to listen to the information that is given to them. They receive a whole lot of materials.

ASSEMBLYWOMAN HECK: Their acceptance of this training, Nancy, how did you find that? Because we were a little concerned. We discussed that prior, too.

MS. KESSLER: I think in the past five years people who are trying to work in the system, and I include the judiciary, law enforcement, prosecutors, service providers, all feel overwhelmed. I think in addition to that people feel they have been somewhat saturated with formal training. My feeling is that you never-- Perhaps we shouldn't call it training. I don't think you can ever get enough information in this area. I learn something new about it every time I look at the law because it's so complex.

I think that, certainly, when people who are overwhelmed are also being asked to absorb information on a repeated basis, there may be a certain amount of discomfort or resentment. But we certainly have the expectation that whatever their personal feelings are about our training, they put that aside. They hear the substance of the training, and they do their jobs properly.

I certainly believe, and would like to believe, that the vast majority of them have responded that way.

Many people tell us nice, positive stories about the fact that they have seen -- at least with a good number of judges -- an increase in sensitivity.

ASSEMBLYWOMAN HECK: In all of the--

MS. KESSLER: That is true of a lot of the newer judges, too.

ASSEMBLYWOMAN HECK: In the 21 counties, would you say that some counties are adhering to the new laws and training a little bit more enthusiastically than others?

MS. KESSLER: I think it would probably be best for me to leave those impressions to the people who deal with those courts every day, but my experience--

ASSEMBLYWOMAN HECK: I think we'll be hearing about that later on.

MS. KESSLER: My experience as a trainer is certainly that some people hear what you say and listen to it, and other people hear what you say and, perhaps, absorb less of it. All of our judges know that this is one of the most volatile areas, one of the most important areas for them to deal with. They also know that they play an incredibly important role in making this stop -- making domestic violence stop.

ASSEMBLYWOMAN HECK: Yes.

MS. KESSLER: At some point, I guess, they have to take the information that has been given to them and do the best they can with it. Undoubtedly, there are going to be variations.

ASSEMBLYWOMAN HECK: I'm going to ask my colleagues to ask some questions.

ASSEMBLYMAN O'TOOLE: Just one question, Chairwoman. Thank you very much, Nancy.

The question is: For those individuals who have put their faith in the system and the system has failed them, where do they turn to? Where is the outlet? We can have all the training in the world for the judges, but if some of the judges remain insensitive to this problem, where do these victims turn to?

MS. KESSLER: Okay. I think there are a number of answers. The first answer -- which I don't mean to sound flip, but, undoubtedly, ends up sounding insensitive, I think -- is that through the judicial process you have the right to appeal. When you're talking about correcting the specific decision of a judge, if you believe it needs correcting, that is what is built into the system -- to the judicial process -- and I need to say that.

But I also need to say that I'm going to go on from that, because I don't believe that that is enough or that that is the only way. But that is always available, and we do get appeals in these cases.

The other thing is that if there is a perception that there is a pattern of insensitivity or lack of knowledge that might lead to insensitivity, if there is a feeling that the process -- the actual case processing that people have to go through -- is not one that is easy to go through or seems efficient, that information can be conveyed to my office. I will tell you that I spend a significant amount of my time, as does Jeff -- as do the other attorneys in my office -- trying to respond to those concerns.

I know a lot of the service providers are here in the audience, along with people from law enforcement. We have constant dialogues about what goes right and what goes wrong. Then, through our State Working Group -- that Assemblywoman Heck is a member of now -- we try to resolve them through-- Not through a case-by-case basis, but if we find institutional weaknesses in the process, whether it's clarification in the law or a need to clarify our procedures in the manual, we can do it through that working group.

So we are trying as best, I think, we can to make ourselves accessible to people who have had a difficult time. Certainly, the two of us will offer, as we have in the past when these situations occur, particularly if they are emergent situations -- if there is a need for emergency response -- to please get in touch with us, and we will do whatever we can.

ASSEMBLYWOMAN HECK: I can attest to the fact that the AOC, the Administrative Office of the Courts, is responsive in cases of emergency and where we believe something has not gone right.

Also, mention the State Advocates Office as well, Kevin, that you can approach, and the AG's Office, too.

ASSEMBLYMAN O'TOOLE: Just one follow-up question, Chairwoman, along those lines.

I've had conversations with individuals and victims who have felt that the process has failed them. It is very difficult for some of these -- particularly the women -- to bring charges against either a former spouse or a husband, and when they do that and they find that the charges have either been downgraded or dismissed, it's very hard for them to have faith in this system.

The question I have for you is: How is it that the average individual or the average victim here in New Jersey -- how would they know to go to your office? Is there a hotline? Is there some joint effort or some publication we can make to make it known that if there is a complaint and they are dissatisfied or they have questions or concerns or they feel the system has failed them, they can contact you or your office, and it's somewhat accessible?

MS. KESSLER: I think there is an effort made whenever a victim is in a courtroom or in the courthouse to make them aware of the county domestic violence program, the battered women's program. That program, the program in any county, is aware of the function that my office serves and is also aware that if they choose to follow this route, they are also encouraged to speak with the Family Division Manager, who is the local administrator, the Family Division presiding judge, or the assignment judge in that county who has oversight responsibility. If it's an issue that can be resolved locally, we often end up working with them anyway.

So I think the point of contact, the initial point of contact -- the best one and the most informed one -- is probably the battered women's program. That puts a lot of responsibility on them. I don't mean to do that, I suppose, but I know that they are wonderful at working with victims and at trying to support them even when they haven't felt supported in the past.

ASSEMBLYWOMAN HECK: Let's also reinforce the fact that local legislators should be a conduit for people who have these feelings.

MS. KESSLER: And have been often, I might add.

ASSEMBLYWOMAN HECK: Because we do have access to that information.

We know, Kevin, that -- not just in domestic violence cases -- when people have complaints and we become the advocate reaching out to other advocates, it seems to move much more quickly. It shouldn't be that way, but it does happen.

Assemblywoman Weinberg.

ASSEMBLYWOMAN WEINBERG: Yes, I just want to add to that that there are Court Watch projects in a variety of counties -- certainly in Bergen County -- in which advocates of the domestic violence victims actually are present in court and monitor what goes on in the courtroom. They publish reports so that patterns can be identified if, in fact, they exist, and they are there to be an advocate for the victim.

MS. KESSLER: I know the one in Bergen County led to a lot of positive change and dialogue.

ASSEMBLYWOMAN WEINBERG: I might add, just for a moment--

ASSEMBLYWOMAN HECK: Is your mike on?

ASSEMBLYWOMAN WEINBERG: Yes, I just turned it back on. Thank you.

Assemblywoman Heck knows about this, but when I traveled in Israel a couple of years ago and visited a battered women's shelter in Jerusalem, I followed up with them. They were just interested in starting a Court Watch Project. I sent them the Bergen County Court Watch Project, and they used that as their model. It is actually in operation now.

MS. KESSLER: And we've shared it around the country, because it is something that a lot of states are thinking about.

ASSEMBLYWOMAN WEINBERG: It's international now.

MS. KESSLER: Right.

ASSEMBLYWOMAN HECK: Assemblywoman Allen.

ASSEMBLYWOMAN ALLEN: Thank you very much, Madam Chair.

You talk about responding and talk about having other groups, organizations, and individuals bear some of the responsibilities, but what about the judge? When you find this pattern, what do you do with the judge?

MS. KESSLER: I think the best way to answer is to talk about what has happened when that has occurred in the past.

A few years ago, there was a pattern that was suggested to us -- and this happened in concern with the Court Watch, actually -- in Bergen County. There was a sense that a particular practice was being followed by, at least, one of the judges. There was discussion that went on locally, and that didn't appear to resolve the problem.

Judge Serpentelli, who would have been much more able to address this -- given that he is the one who did it -- ended up having a dialogue with the assignment judge from that county. I don't believe it, ultimately, had to go any higher than that, but he was prepared to do that as the Chairperson of that group. He has made that offer at meetings on a variety of occasions.

I think the bottom line is that when patterns are identified that show, at the very least, a lack of information or training -- and I think as much as people attend training, hearing it once and reading it is not always all that

you need-- You need experience, practice, and reinforcement, which we also try to provide. If that is the reason, the bottom line is that if the pattern is evidenced and it is shown, that judge ends up having a discussion with the presiding judge or the assignment judge in that county, and it's brought to that judge's attention.

Judges, obviously, have a significant amount of discretion and independence that is built into their position, so it is a very delicate balance. The relationship that we have with local courts is also one that we maintain very carefully in terms of balance.

ASSEMBLYWOMAN ALLEN: If I could just follow up for a moment: Should we have a mechanism whereby more than a discussion is held?

MS. KESSLER: That is available, and I guess I should have mentioned it. I'm sorry.

We have built into the Administrative Office of the Courts an Advisory Committee on Judicial Conduct, and we have an office within the AOC that supports their work. What we tell any litigant who is dissatisfied, who comes to us about what has happened, is that if their complaint is about the conduct of a specific judge that that can be brought to the attention of that office. They have a very formal process that they go through. There certainly are judges, on occasion, who have been sanctioned or dealt with formally when that has been brought to their attention and when an investigation has shown that it is something that needs correction through more than reeducation.

ASSEMBLYWOMAN ALLEN: Should we be able to put them back into the education process more than every other year?

MS. KESSLER: We train and offer domestic violence training more than every other year, so--

ASSEMBLYWOMAN ALLEN: But for each individual judge--

MR. KUHN: (off microphone) If there is a possible sanction involved that may be one of the elements of the sanction, certainly.

ASSEMBLYWOMAN ALLEN: Thank you.

ASSEMBLYWOMAN HECK: Yes, Assemblyman Impreveduto.

ASSEMBLYMAN IMPREVEDUTO: Just a follow-up on Assemblywoman Allen's question.

If there is a complaint against a judge in this particular area, is the judge removed from that area and made to sit in another court?

MS. KESSLER: It can be handled in a variety of ways. Sometimes that will happen. There are a whole range of sanctions.

ASSEMBLYMAN IMPREVEDUTO: No, I'm talking about before the sanctions. The complaint is made that this judge just is very insensitive to domestic violence or whatever the complaint is, is that judge permitted to sit while-- After that complaint is made, is that judge permitted to sit continually on those kinds of cases, or is he moved to a civil court?

MR. KUHN: That decision is a matter of discretion in terms of the local administrative process within vicinage between the assignment judge and the presiding judge of the Family Division. Those judges, in conference with the subject judge, will make a decision concerning the appropriateness of the assignment of that particular judge. If corrective action can be taken to the satisfaction of the presiding judge, then that would certainly be the least available type of--

ASSEMBLYMAN IMPREVEDUTO: My question again is: The complaint is made. While the process of investigating the complaint is going on, is that judge permitted to continue to sit on those kinds of cases or is he moved to a different court?

MS. KESSLER: It would depend on the nature--

MR. KUHN: (indiscernible)

MS. KESSLER: It would depend on the nature of the complaint. My guess would be that, more often than not, the answer would be, "No." The person would not be removed until an investigation had been completed. But, certainly, that person would be alerted to the fact that questions had been raised, and very often that may help somebody to think about it.

ASSEMBLYMAN IMPREVEDUTO: Who would be the one who makes the complaint? Would it be the victim? Would it be the victim's attorney in those kinds of areas?

MS. KESSLER: Many of these victims don't have attorneys. I think an attorney would be more likely to know that that route is available, which is why the question about how victims would know is a very important one.

ASSEMBLYWOMAN HECK: Just as a point of information, Tony, in the Bergen County situation, it was the movement of all the women's advocates who made the change with the complaints made in that area. The Court Watch was so effective because it brought attention to the judge, because there were so many people sitting in the courtroom weighing and monitoring that person who was sitting on the case.

So we know, through history, that if we get enough people involved -- men and women involved -- in watching what is going on-- This is not only a situation where judges are being watched, but sometimes prosecutors and/or defense attorneys as well. So I think it's a question of attention that we have to use and to continue to use. I think it has improved the quality of the courts.

I did want to bring up -- and excuse me, I'll let you ask this-- But the Middlesex situation; we were talking about the consistencies over the counties. There were two cases *Perino v Perino* -- Perino, I believe it is (indicating pronunciation) -- and *Corrante v Corrante* in Middlesex were used to deny restraining orders to the victims of abuse.

Do you think it's important for us to go back and put point by point what is meant in the intent of the law so that judges cannot just suppose it meant something else?

MS. KESSLER: Well, I think that, particularly in 1991 and 1994, the legislative statements that began the amendments were very clear and provided the type of legislative history and legislative intent that judges use when they interpret areas that might be questionable or gray.

With regard to the two decisions you described, Assemblywoman, those are two Appellate Division decisions in which it appears -- or, at least, it is being interpreted -- that the Appellate Division may have narrowed the scope of relief, or, at least, interpreted the scope of relief intended by the Legislature, and that is being followed and interpreted in a variety of ways.

But what I would like to bring to your attention is that the impact of those cases has been brought to the attention of the Working Group, of

Judge Serpentelli, and of the Chief Justice. The Working Group has, in fact, discussed those opinions and the impact throughout the State, and it is something that has been taken under advisement within our system.

ASSEMBLYWOMAN HECK: What we are trying to find out here today is, in listing the criteria for the courts to consider, history is a factor that has to be considered, but the statute does not say there must be a history of abuse and it does not say that without a history of domestic violence no protection shall be given. The findings say the judge shall consider, but not be limited to, a list of factors, including the history -- including, but not excluding that.

MS. KESSLER: Correct.

ASSEMBLYWOMAN HECK: So do you believe that it might be incumbent upon the Legislature to revisit that particular part of the law in order to make sure that they do not lean in that area, or do you think the Working Group or through Judge Serpentelli that might be clarified?

MS. KESSLER: Perhaps, at some point, if the Legislature feels that the Act is being interpreted less broadly than it intended, the Legislature might want to revisit it, but it's not only the Prevention of Domestic Violence Act.

Those two cases address the harassment statute, and it's the manner in which the harassment provisions of the Criminal Code are interpreted that are commented on in those cases. Harassment requires a specific intent the way it currently is drafted. The act of harassment and the Prevention of Domestic Violence Act requires that one of a variety of 14 underlying acts be committed and be demonstrated, so--

ASSEMBLYWOMAN HECK: Well, we listened to Kevin, and the fact that that judge said it wasn't domestic violence even though it began way back when and was ignored-- I think this is a dangerous precedent. I think it can result, as we know, in some of the changes we made with domestic violence including people who are not married and people who are underage. We have seen deaths come out of those situations where the courts did not place a restraining order or did not notify the victim that someone was being let out of jail, etc. These are the things we want to focus on.

Perhaps you can, through AOC, make some suggestions to us so we can tighten up those laws, so there is no room for error in these areas.

MS. KESSLER: Certainly, if the sentiment that is expressed today leads you to feel that there is a need for clarification, we would be more than happy to work with you on that.

ASSEMBLYWOMAN HECK: Do you believe, knowing your history, that it might be needed?

MS. KESSLER: I think the fact that it is being interpreted differently by different judges could support what you just said, in itself.

ASSEMBLYWOMAN HECK: Thank you very much. Nice answer, Nancy. (laughter)

MS. KESSLER: Thank you.

ASSEMBLYWOMAN HECK: Are there any other questions?

ASSEMBLYMAN IMPREVEDUTO: Yes, thank you.

You talked about the fact that municipal judges are required -- when they become municipal judges -- to undergo training in this area. How

about prosecutors in municipalities? Are they also required to undergo training?

MS. KESSLER: I think that a much better answer to your question could be given by the Department of Law and Public Safety, so I would rather defer to them, if that is okay.

ASSEMBLYMAN IMPREVEDUTO: Fine, whoever.

MS. KESSLER: And they'll be testifying, if not immediately following us, in the near future.

ASSEMBLYMAN IMPREVEDUTO: Fine.

ASSEMBLYWOMAN HECK: Yes, Assemblywoman?

ASSEMBLYWOMAN WEINBERG: I have a question.

One of the aspects of the law that we passed in 1994 requests the Supreme Court to establish a pilot program creating a model domestic violence court in Bergen County. The way I understand it is no money was appropriated, so it kind of became a moot point. But there is also a question of whether or not the Legislature had a--

ASSEMBLYWOMAN HECK: Just as a point of clarification, there is a pilot program in Bergen County. It has been supported for two years.

ASSEMBLYWOMAN WEINBERG: But I'm talking about in a courtroom with a judge who handles only domestic violence matters.

ASSEMBLYWOMAN HECK: Oh, that one. All right.

ASSEMBLYWOMAN WEINBERG: Yes, I didn't get to the other half of it. There was also a question on whether or not we actually have the right to require the courts to set that up.

I wonder if you could comment; I've heard pros and cons on whether or not there should be just one courtroom/one judge or two courtrooms/two judges, whatever, but judges who only handle domestic violence matters -- whether that leads to a better judicial system or not?

MS. KESSLER: I think the experience, nationally, has been really mixed and checkered. I think the structure of our law, where we have a parallel criminal and civil process, offers a whole host of things that having it in one place might not.

I think you have the potential for broader remedies. You have the potential for access to one system with a lower standard of proof and a less formal atmosphere than you would find in the other, and the hope was certainly that that would be more accessible and comfortable for victims. My own sense is that there are a lot of advantages to the structure we have as a structure. Whether we've realized the full potential of the laws is, obviously, why we're here today and something we need to look at.

But I would like to bring to your attention that we have two counties which have informally attempted to achieve what you're talking about in a limited way. One of them had to dismantle their program because of a lack of resources -- and that was Gloucester County -- the other county, Sussex, is continuing, although they are having resource difficulties also.

What they do is when criminal charges -- disorderly persons charges -- are filed and domestic violence restraining orders are sought as well, in the civil context, the municipal court charges -- the disorderly charges -- are immediately brought up to the Family Division through our court rule that allows that, and both are heard by the Family Division judge. The prosecutor,

in effect, is presenting both cases, although the focus is certainly on the criminal case.

The Violence Against Women Act required New Jersey -- along with all other states -- to come up with a plan for how we would spend our Federal dollars. Part of our plan is to study various structures to see whether that structure, in particular, provides better access and better service, or whether it's appropriate for a smaller county but not for a large county.

We're also looking at a model which is currently under development in Union County -- which I know will be discussed later -- where there will be intensive training of municipal prosecutors to see whether that affects the quality, or perceived quality, of service.

So there is an attempt, right now, in the State to look at different options and to see whether there are things that should be changed either informally or formally.

ASSEMBLYWOMAN HECK: Nancy, we know there is a report from the Supreme Court's Committee on Efficiency that validates the lack of uniformity, and we've broached that before. You were talking about additional resources that you need.

Now, in the underage-- Since we've included young people, has that increased the load as well?

MS. KESSLER: It is interesting. We thought-- I think everybody was concerned that we would see a huge influx of cases arising out of the dating relationship, if that is what you're referring to?

ASSEMBLYWOMAN HECK: Yes.

MS. KESSLER: We have not seen that statewide. We've seen some increase in the Family Division filings, but not a huge increase. My understanding is that there has been a significant increase in the number of criminal complaints being signed in that situation, and I'm not sure I know the reason that it would affect one disproportionately.

But my understanding is that that is where we're absorbing that increase, and that is something that the prosecutors and AG's Office might be able to address.

ASSEMBLYWOMAN HECK: All right. Where do you believe in the New Jersey courts the resources are the poorest dollarwise?

MS. KESSLER: Are you asking me which county?

ASSEMBLYWOMAN HECK: Yes, or in what area?

MS. KESSLER: I think that we need more judges to hear these cases. I think the most sensitive, most well-educated, most well-trained judge is still going to, at some point, evidence the frustration they feel at having such a high caseload that they can't devote the kind of time to each case that they would like to. We're just overwhelmed right now. Our filings across the boards have gone way, way up and, certainly, domestic violence more than any other case type, but--

ASSEMBLYWOMAN HECK: How many cases would you say the average judge is hearing on domestic violence? I mean, you say, "the caseload."

MS. KESSLER: Well, it's a difficult question to answer, because in most counties judges don't only hear domestic violence cases.

ASSEMBLYWOMAN HECK: So the composite.

MS. KESSLER: But a Family Division judge--

Jeff, I don't know if we have specific numbers. (speaking to witness in audience)

ASSEMBLYWOMAN HECK: Then, let's say all the cases, including the domestic violence.

MS. KESSLER: It would not be surprising-- I think I can deal better with a specific example--

ASSEMBLYWOMAN HECK: Yes.

MS. KESSLER: --because I'm not sure how we could capture that information across the boards.

But it is not at all unusual on a filing hearing day, in a middle-sized county or larger, for a judge to have 60 final hearings listed.

ASSEMBLYWOMAN HECK: Oh really.

I have a question about--

MS. KESSLER: How anybody could do that--

MR. KUHN: (off microphone) Chairwoman, we have-- Maybe a simple way to look at it is, we're estimating a little bit over 70,000 domestic violence filings for this court year. We have 106 Family Court judges.

ASSEMBLYWOMAN HECK: Thank you.

A number of those cases are beginning to be heard in municipal court, is that working out well?

MS. KESSLER: Well, the only thing the municipal court handles is the request for a TRO off hours.

ASSEMBLYWOMAN HECK: Oh, all right.

MS. KESSLER: That is built into the law. But we're doing something different--

ASSEMBLYWOMAN HECK: The specially trained hearing officers--

MS. KESSLER: The hearing officers, that is in the Family Division.

ASSEMBLYWOMAN HECK: Well, the specially trained hearing officers are made up of?

MS. KESSLER: We only have two now. They both are Family Court staff people--

ASSEMBLYWOMAN HECK: Staff people.

MS. KESSLER: --with significant experience. In each of the two counties where we have experimented with this, they hear those cases.

ASSEMBLYWOMAN HECK: Did you say that is Hudson and Ocean?

MS. KESSLER: Hudson and Ocean. They hear the bulk of temporary restraining order requests. That makes a tremendous difference, because, as you know, those are unscheduled.

ASSEMBLYWOMAN HECK: Yes.

MS. KESSLER: On any given day, it can -- if a judge has to hear it -- eat into and disturb a scheduled calendar.

ASSEMBLYWOMAN HECK: How long has that been in effect, Nancy, and why aren't we doing it in all the counties?

MS. KESSLER: Well, it was just approved for statewide replication. The pilot lasted for, approximately, two years. I think our big

issue is going to be a resource issue, because, as you know, our budget has been reduced, or at least, there is an expectation that we will be bare bones along with everybody else. To take on that kind of a new responsibility is going to be difficult without some additional resources, and we've put that in our budget.

ASSEMBLYWOMAN HECK: But in essence, wouldn't it be more cost effective to have hearing officers -- staff, so to speak -- to hear these things rather than judges? I mean, the salary differential is--

MS. KESSLER: That certainly has been our argument.

MR. KUHN: Chairwoman Heck, we have-- The Chief Justice and the Assignment Judges have authorized the expansion of the Domestic Violence Hearing Officer Program to four additional vicinages during the coming court year.

One of the reasons that we're expanding -- not withstanding resources -- at a relatively slow pace -- despite the success of the program in terms of its value and outcome -- is that we need to be careful about the quality of service we're providing victims as an alternative to the judge hearing an application for a restraining order.

Through the State Domestic Violence Working Group that concern has been voiced numerous times. We understand the concern. We're proceeding very cautiously. Despite the fact that we are expanding the four additional vicinages, we are attaching a valutive component to each of those programs as well.

So, while we want to expand the project and believe it has been successful, we're still being very cautious.

MS. KESSLER: And even though part of the selection criteria includes experience in the area of domestic violence, we, through our office, do a significant amount of additional training before they start in that position. So it takes a lot of up-front work.

ASSEMBLYWOMAN HECK: Are there any other questions from the group?

ASSEMBLYMAN JONES: I had a question.

ASSEMBLYWOMAN HECK: Yes, Assemblyman Jones.

ASSEMBLYMAN JONES: Thank you, Madam Chairwoman.

I don't know that the question would be somewhat redundant, there has been a lot of dialogue back and forth and just trying to follow it is a little difficult. But as you're trying to really grasp hold of the compelling testimony that we heard from our colleague.

But on the issue of training: I think there was representation that indicated that since the amendment to the Prevention of Domestic Violence Act, all judges who are currently sitting have been trained.

MS. KESSLER: That is correct.

ASSEMBLYMAN JONES: That is correct. You're going to leave the response to the Department of Law and Public Safety on the issue with respect to prosecutors, sheriffs, and others--

MS. KESSLER: Yes, with this note: In 1994 -- I mentioned earlier -- we did joint training. The way we conducted that training was to do a statewide train-the-trainers sort of training for prosecutors, judges, managerial staff in the courts, and law enforcement.

But we then did, I believe, it was 16 regional training sessions that were half-day sessions out in the counties where the people who do domestic violence work on a day-to-day basis were mandated to attend. The training consisted of a full discussion of the amendments to the law, a discussion of dynamics of violence, and particularly, dynamics in the dating violence area because that was a new area. The prosecutor in each county participated, court staff participated, and we coordinated it centrally.

We have begun to discuss the need to do something like that again because we are now two years down the road from that time. There have been significant legislative and administrative changes since that time. It seemed to be very well received in terms of a mechanism for reaching everybody with uniform quality information.

So we have begun discussions -- and we've only begun them -- to talk about doing that this fall, so that we can, once again, be sure that we have reached everybody.

ASSEMBLYMAN JONES: And all the training that is being received is from experts in the field?

MS. KESSLER: Yes.

ASSEMBLYMAN JONES: With respect to the training received on the dynamics of domestic violence: Would those dynamics include instruction on documentation of injuries, attitude and history of violence between parties?

MS. KESSLER: I think that discussion is directed more at police and prosecutors, because documenting injuries is something they do when they investigate. It is also something that victim programs do in talking to victims,

so that they are more aware of what they can do to be sure that they can make their case.

When we train judges about dynamics, one of the things that is made clear to them is that there are not always physical manifestations of those injuries, and that the intent of the Act -- both the letter and the intent of the Act -- was to cover situations well beyond the traditional physical injury situation.

We also talk about the types of injuries that are typical in domestic violence cases. When a woman is pregnant, physical injury intensifies to certain parts of the body, and judges are educated about that, too.

ASSEMBLYMAN JONES: In a three-hour training how much time is actually devoted to domestic violence dynamics?

MS. KESSLER: The training we just did, as I mentioned, was longer than that. The dynamics portion of it was in excess of two hours and then was continued throughout the afternoon.

When we have a half-day training -- three to three-and-a-half hours -- the dynamics portion probably takes up at least two hours of that and, then, gets repeated through responding to questions.

ASSEMBLYMAN JONES: All right. If I'm understanding correctly, in a three-hour training, two-thirds or two hours is devoted to domestic violence dynamics.

MS. KESSLER: That is correct.

Now, we're only talking about the domestic violence component of their training. They're trained on many other areas of the law and of what happens in the Family Division that get into victims, victimization, and

psychology of victimization, as well. They're trained about child abuse. They're trained about child sexual abuse. There is a discussion about how to deal with witnesses, how to deal with pro se litigants, there is a discussion about--

ASSEMBLYMAN JONES: And all of this is in three hours?

MS. KESSLER: No, no, no, no, no. This is in addition. The three-hour component is focused, exclusively, on domestic violence. What I am saying is--

ASSEMBLYMAN JONES: Okay.

MS. KESSLER: --there is a lot of other information given to them as well during the balance of the training they receive, particularly before they go to the Family Court. But that is then augmented by the workshops they get at the Judicial College every year.

We always offer at least two workshops that address, specifically, domestic violence and that address the whole question of affect and presentation of people in the courtroom: what to look beyond, what to look for, how to interpret interactions between victims and defendants. That occurs outside of that three-hour contact. So that is only the bare minimum where we cover the specific elements listed in the law.

ASSEMBLYMAN JONES: Okay, so--

ASSEMBLYWOMAN HECK: Nancy, I--

Excuse me one second, because I don't want to forget this.

ASSEMBLYMAN JONES: What if I don't want to forget something?

ASSEMBLYWOMAN HECK: No, no. This is something that someone asked me to alert you to.

ASSEMBLYMAN JONES: Okay.

ASSEMBLYWOMAN HECK: When you do the preliminary reports on people who are being considered for judgeships -- we know that you do criminal checks, etc. In the case of domestic violence -- and some of them just go to a civil action -- are they looked at? Because it was reported to me that a civil action was taken against someone who became a judge in the area of domestic violence, and this person sits on domestic violence cases. I would consider that kind of a prejudicial view. Do we look at that?

MS. KESSLER: We have very little-- As I understand it, we have very little involvement in what is done before somebody -- during the nomination and appointment process.

ASSEMBLYWOMAN HECK: Oh, you're not part of that. Which division, which department--

MS. KESSLER: The State Police, the Governor's Office are primarily involved in that.

ASSEMBLYWOMAN HECK: So that investigatory process is at the discretion of a particular division, or can we add to that list of requirements?

MS. KESSLER: I would imagine that discussion is a discussion you should have with the Department of Law and Public Safety or with the Governor's Office.

But what I would mention is that, as you well know, at this point we don't have a central registry of civil domestic violence orders. So if it were made--

ASSEMBLYWOMAN HECK: We have a bill.

MS. KESSLER: I know we have activity going on with the bill in that regard, but without a statewide registry -- even if it were a requirement -- it would be somewhat difficult to do.

ASSEMBLYWOMAN HECK: It wouldn't be found?

That is why that bill is so important, Loretta; that is why that bill is so important. We have that bill in -- it came out of Law and Public Safety -- but that is something-- A central registry--

ASSEMBLYWOMAN WEINBERG: All you need to do is get \$2 million out of the Appropriations Committee and we'll be doing really well.

ASSEMBLYWOMAN HECK: That is right. Well, they can find it some place. It's important.

Assemblyman Jones, you have another question through the Chair.

ASSEMBLYMAN JONES: Well, this is a continuation of the question that was on the floor.

So back to the three-hour training and the two hours devoted to the domestic violence dynamics: Is there a standardized core curriculum that pretty much mandates that there will be, at least, two hours of education that would be devoted to--

MS. KESSLER: The answer to your question -- the quick answer -- is, "No." There is not a written mandate, but we conduct the training. We've determined, through discussions with legislators, experts in the area of

domestic violence victim's service providers, and others that that has to be the heftiest component of that initial training.

Probably more relevant than that, the experts who train will only train if the dynamics of violence is the heftiest component, because they know that without that information the law is really just words. The other thing is that we assume that while judges, when they were attorneys, may not have had any training about psychology or dynamics during the course of their careers, they certainly know how to read laws. So we feel we have to spend less time on that.

ASSEMBLYMAN JONES: Okay.

Just another question. Is in-service, biannual training now required?

MS. KESSLER: Absolutely.

ASSEMBLYMAN JONES: How is it monitored?

MS. KESSLER: We conduct the biannual training -- which we have interpreted as meaning every two years based on legislative history and based on the discussion when the laws were being drafted-- We meet that requirement through presenting the workshops at our yearly conferences. All of the judges attend those conferences. They do not all have to take those workshops every time they go, but they are all aware that they are under an every-two-year mandate.

Now, in order to be sure from our end that everyone is being trained and enriched biannually, we have begun the discussion I mentioned before to conduct update training that everybody would attend some time during the fall -- if we can swing it -- because that would be two years from the

last time we did it. All of the judges attend that, and any judge who wasn't sitting at that time we know has attended the new judges' training which covers it. So at this point everybody has been trained.

ASSEMBLYMAN JONES: So you keep a formal record?

MS. KESSLER: Yes, we do -- who attends.

ASSEMBLYMAN JONES: May we just go back to restraining orders for a second, if that is okay with the Chair?

ASSEMBLYWOMAN HECK: Well, I think, Assemblyman Jones, we've traveled this route. If you have something new to say about it-- Because the AG's Office is also here and we would like to hear from them.

ASSEMBLYMAN JONES: Well, I just think this is a very important issue and, as a legislator--

ASSEMBLYWOMAN HECK: No, it is important, Assemblyman Jones; that is why we are conducting the meeting. I'm asking you, is it something new, just to try to get to the new things. Thank you.

ASSEMBLYMAN JONES: I'm not quite sure whether it would be something new or not, it may be new to me.

ASSEMBLYWOMAN HECK: Go right ahead. Assemblyman Jones, I don't want a dissertation. I would like you to just pose your question, please.

ASSEMBLYMAN JONES: With respect to restraining orders for victims of emotional abuse and harassment, I'm not quite sure I-- I listened to Assemblyman O'Toole, and I just find it bizarre, at best, that that situation had not been dealt with in the proper issuance of a restraining order. It just

seems to be so difficult now for a woman, or whoever is the victim in a domestic violence situation, to request and have a restraining order issued.

Then, as I read documentation, and I think it was reflected by your office, that now -- or just recently reported -- there are 20 percent to 30 percent fewer restraining orders issued. I'm not quite sure whether or not--

I'm just hearing some of the dialogue going back and forth. Is there is a legislative glitch that needs to be remedied or cured? Is there a judicial temperament that, perhaps, needs to be revised or--

MS. KESSLER: Okay. I'd like to try to answer the first part of your question.

ASSEMBLYMAN JONES: Okay.

MS. KESSLER: Right now, the way the Prevention of Domestic Violence Act works is at least one of the fourteen underlying offenses has to be alleged and has to be proven not beyond a reasonable doubt -- because it is not a criminal standard -- but by a preponderance of the evidence.

Many of the cases are based on allegations of harassment. The way the harassment statute is structured right now, there are three different parts of that statute -- three different types of conduct -- that could constitute harassment. Any of the three have to demonstrated along with a purpose or an intent to harass. So first, you have to show an intent or purpose to harass, then you have to meet one of the those three areas. One of them is a pattern of conduct.

My understanding is that the Appellate Division interpreted the purpose to harass in such a way as to look at the history between the parties, as well as the particular incidents in question. If there is a belief that the

purpose is too high a standard, I was suggesting before to Assemblywoman Heck that attention might be given to the harassment statute, or that attention might be given to the portion of the Domestic Violence Act that refers to harassment.

Right now, you still have to prove by a lower standard of evidence that one of those fourteen underlying acts has been committed. So you have to meet all the states of mind required by the Criminal Code for the particular offense and all of the other elements. That is difficult to do in a criminal context when you are a skilled prosecutor. It may also be difficult -- and understandably so -- when you are a person without that type of legal experience, but it is, at this point, the way the legal structure is set up.

ASSEMBLYMAN JONES: The judge who, I guess, presided in the Appellate Court, whose, I guess, two separate decisions basically influenced this issuance of restraining orders, who was that?

MS. KESSLER: Judge Long. Judge Long is the judge from that panel who authored the opinions, but it is a panel of judges. Just as a point of information, she has significant background in the Family Court system.

If you look at the opinions, they contain a significant amount of legislative history. I'm sure that there are differences of opinion as to what that history would lead to, and certainly, if there is a sense that the history and the intent has not been interpreted as the Legislature wanted it to be, that could be clarified.

ASSEMBLYMAN JONES: Now, do you have to meet all that criteria that you had outlined in order to receive a temporary restraining order?

MS. KESSLER: No, you don't. In order to get a temporary restraining order-- I don't have the law handy, but I'll see if I can remember all the elements.

In order for a judge to grant a temporary restraining order the judge has to believe -- has to have probable or good cause -- that the victim's life, health, or well-being has been threatened and that a restraining order is necessary to stop further abuse. So it is a good cause or a probable cause standard to believe that one of the fourteen acts has been committed, and that one of the relationships specified in the law is in place. So that is what a victim has to do.

It tends to be a very summary proceeding. Certainly, at 3:00 in the morning or on the weekend, usually it is done on the telephone. It consists of a police officer calling the judge, speaking with the judge, giving the judge information about the incident. Then, the victim talking to the judge and being asked a very short series of questions about what act is being alleged, what happened, what the relationship is between the people, and whether the victim feels in danger.

Then, I think our restraining order percentage -- the grant of temporary restraining orders -- is well over 80 percent. The smaller percentage occurs at the final restraining order.

ASSEMBLYMAN JONES: Okay. Thank you.

ASSEMBLYWOMAN HECK: There will be one more for your office, and then, I want to call the AG's Office.

We're going to alternate between the prosecutors, the law enforcement community, and the advocates so we can get a couple of different approaches at the same time and might instill some more information.

Assemblywoman Allen.

ASSEMBLYWOMAN ALLEN: I'm from the southern part of the State. Down in Gloucester County there was a rather unique program that prosecutors, I believe, initiated that seemed to be effective in ways of dealing with case assignments and it was terminated. Do you know why?

MS. KESSLER: Yes. I made reference to it earlier. Both Gloucester and Sussex Counties had programs -- informal programs -- where municipal court matters -- the actual criminal disorderly persons offenses -- would be joined with the civil restraining order requests and heard in the Family Division. It was terminated in Gloucester because there was a resource problem.

First of all, it requires a lot more time on the part of the Family Division judge because they are hearing more cases. Second of all, it requires tremendous resources on the part of the county prosecutor's office because, normally, they don't prosecute those cases. Third of all, when you bring the criminal aspects into play, you have to have a defense resource available. When it is at the municipal level you have municipal public defenders available for indigents. At the county level it is a different system, and the county public defenders' office doesn't deal with disorderly persons offenses. So there was a problem in terms of getting representation for defendants.

So given the bare--

ASSEMBLYWOMAN ALLEN: So was it not an effective and good program then?

MS. KESSLER: I don't think that anybody terminated it because it wasn't effective. It was terminated because of a lack of resources and because, at this point, given the pressure that Family Divisions and others are under to meet standards in a lot of different case areas. Because it is not a practice that has been demonstrated as being more successful and it is a practice that hasn't been funded through resources, they felt that they didn't have the choice to carry it on at that time.

ASSEMBLYWOMAN ALLEN: My only concern is that we're talking about something that seems to be an innovative approach, and obviously, I would think we would want to encourage those sorts of innovative approaches always.

MS. KESSLER: I think that one of the hopes with the VAWA plan that I mentioned is that by looking at that particular innovative strategy if, in fact, as many of us suspect, it would be found to be as, if not more, effective then subsequent resources could be aimed in that direction.

The problem is that they felt they could not continue without that influx of resources.

ASSEMBLYWOMAN ALLEN: It seems to come down to a bottom line every time.

MS. KESSLER: It unfortunately seems to, although I think most people try not to let that happen.

ASSEMBLYWOMAN ALLEN: Thank you.

ASSEMBLYWOMAN HECK: Thank you very much.

I'm sure that all of us here know that you are available to each and every one of us if we have concerns and questions.

MS. KESSLER: Always.

ASSEMBLYWOMAN HECK: Your office has always been responsive.

I thank you and David Anderson for all of the assistance you have given us.

Again, just to point out to my colleagues, indeed you will be available if they have more questions.

MS. KESSLER: Absolutely. Thank you very much for the opportunity.

ASSEMBLYWOMAN HECK: Thank you very much. I appreciate all the time, I know we've had you here for quite a while.

MS. KESSLER: I'll give you our comments.

ASSEMBLYWOMAN HECK: I'm going to ask Jane Grall, Debby Stone, and Christine Steinberg from the Attorney General's Office to come forward, please. They've given us this reference material. (indicating) (laughter)

ASSEMBLYWOMAN WEINBERG: You didn't have that duplicated for us? (laughter)

ASSEMBLYWOMAN HECK: It's very weighty. (laughter)

Jane is the Chief Legislative Counsel and Assistant Attorney General. Debra Stone is a Deputy Director, Criminal Justice, Domestic Violence, and Christine Steinberg is an Assistant Attorney General.

Where did Jane go?

ASST. ATTY. GENERAL CHRISTINE H. STEINBERG: She is coming.

ASSEMBLYWOMAN HECK: Oh, good.

You're going to take a backseat to these two ladies, Jane?
(affirmative response from audience) Oh, okay.

Your division -- the Attorney General's Office -- has always been helpful to us, and we appreciate the fact that you're here today to testify.

Again, I say to my colleagues, they can always access you.

ASSISTANT ATTORNEY GENERAL STEINBERG: Absolutely.

ASSEMBLYWOMAN HECK: Thank you.

ASSISTANT ATTORNEY GENERAL STEINBERG: I guess the first thing I should do is change the reference in my statement from "Good morning" to "Good afternoon."

ASSEMBLYWOMAN HECK: Yes. (laughter)

ASSISTANT ATTORNEY GENERAL STEINBERG: Chairwoman Heck, and members of the Assembly Policy and Regulatory Oversight Committee, my name is Christine Steinberg. As mentioned, I am an Assistant Attorney General working in Attorney General Poritz's executive offices.

On behalf of Attorney General Poritz, I thank you for this opportunity to participate in this meeting. Attorney General Poritz asked me to tell you that she regrets that she could not appear herself today. Unfortunately, she had a long-standing commitment that required her to be out of the State.

The prevention of domestic violence, the continuing improvement of our victim assistance programs, and the prosecution of domestic violence

offenders are matters of priority to Attorney General Poritz. Domestic violence is one of the most significant issues that the law enforcement community confronts.

I would like to speak with you today about how our Department is meeting its obligations under the domestic violence law. We understood that you were particularly interested in training and coordination issues and hope that this is helpful to you.

In 1991, as you know, the Legislature made sweeping changes to New Jersey's domestic violence law. Shortly thereafter, the Chief Justice of the Supreme Court and the Attorney General joined forces to develop a *Domestic Violence Procedures Manual*.

You have a copy of the manual, along with many other materials that we thought might be helpful, in the binder that was provided to the Chairwoman.

The goal was to provide law enforcement officers, prosecutors, judges, and court personnel with a comprehensive guide to the handling of domestic violence cases. In 1994, when the Act was amended, the manual was promptly updated to reflect changes in the law.

Through the manual, the Attorney General has prescribed a domestic violence standard for law enforcement. The standard outlines minimum requirements that county prosecutors must incorporate into standard operating procedures for the handling of domestic violence cases in their respective counties.

In establishing the standard, the Attorney General recognized the diversity among counties in the State. Accordingly, county prosecutors, as the

chief law enforcement officers in those counties, were charged with the responsibility for establishing specific domestic violence procedures tailored to meet the needs of their individual counties.

The manual also includes general guidelines on police response and guidelines for weapons seizures in domestic violence cases. In addition, it contains procedures for filing domestic violence complaints and the handling of domestic violence cases once they are filed.

The Department's Division of Criminal Justice also serves as a statewide coordinating agency for domestic violence issues. The Division advises county prosecutor's offices of developments in domestic violence laws, holds training sessions for assistant prosecutors assigned to domestic violence cases, and conducts an annual symposium on the subject of domestic violence to update prosecutors and law enforcement personnel on developments in the law. The Division's monthly meetings with all county prosecutors also provide a forum for discussion of domestic violence issues.

The need for cohesive training of law enforcement personnel in the area of domestic violence was recognized by the Legislature when the Act was revised in 1994. The Act requires that the Attorney General, through the Division of Criminal Justice, develop and approve a training curriculum on the handling, investigation, and response to domestic violence, including abuse and neglect of the elderly and disabled.

The law further requires the curriculum to be revised at least every two years and modified as needed. In addition, the Act directs all law enforcement officers to attend initial training on domestic violence within 90 days of appointment or transfer and to have periodic in-service training.

Consistent with this mandate, the Division has developed a series of training courses for law enforcement personnel. These courses range from the fundamentals of handling domestic violence cases to more advanced courses in matters such as investigative techniques and strategies.

As you know, the law requires that every police officer in the more than 500 municipalities in the State receive training in domestic violence. It is the Division's job to ensure that the training courses for every law enforcement officer -- from the inexperienced recruit to the leader of a specialized domestic violence task force -- is quality training which combines accepted law enforcement practices with the requirements of the domestic violence law.

The Division has developed a full range of training programs geared to different experience levels. Despite differences in approach or degree of detail, each has been designed to incorporate fundamental procedures that will achieve several goals: protection of the victims; thorough investigation; preservation of crucial evidence; and safety of the responding officer.

Basic training courses are developed by the Division for police academies throughout the State and for incorporation by the State Police into their training regimen. Police academies, certified by the Police Training Commission, conduct extensive training on domestic violence as part of their criminal justice curriculum.

In these courses, recruits are taught the dynamics of domestic violence, State law pertaining to domestic violence, and how to respond to and handle a disturbance call. Domestic violence courses have been developed for

specific categories of law enforcement officers, including police officers, corrections officers, parole officers, and investigators.

As I noted, beyond basic training, periodic in-service training is also required under the Act. To more efficiently provide this training, in-service training is conducted by the counties' prosecutors' offices and, in some instances, by local law enforcement agencies.

Since 1994, the Division has developed courses for in-service training through the publication of both instructor and student course manuals. As training materials are prepared and distributed by the Division, local law enforcement agencies are able to maintain an expanding reference guide on all aspects of domestic violence and a single reference source to meet the needs of the officer in delivering proper law enforcement services to the victim.

The training courses include dynamics of domestic violence, legal aspects of domestic violence, enforcement of out-of-state restraining orders -- or orders of protection in domestic violence cases -- and interviewing techniques in domestic violence.

I should note that, with the development of the *Guidelines for the Enforcement of Out-of-State Domestic Violence Orders*, New Jersey has become one of only a handful of states to have implemented formal procedures for enforcement of an important provision in the Federal Violence Against Women Act. That provision mandates that states give full faith and credit to out-of-state domestic violence restraining orders.

Although not mandated by the law, since 1991, the Division has also provided training courses for police dispatchers, recognizing that the police

dispatcher is the vital link between the victim of domestic violence and the responding officers.

Other specialized training programs are offered by the Division. These courses are designed for specific groups, such as domestic violence service providers, law enforcement executives, assistant prosecutors, and chiefs of police. These courses focus on the special circumstances and challenges that domestic violence incidents pose to these professionals. New specialized programs are being developed for presentation later this year.

The Division also serves as a coordinating agency and an ongoing resource for the statewide dissemination of information about domestic violence. Formal training is supplemented, as needed, by distribution of written policies. The Division also addresses specific inquiries from prosecutors and police on a day-to-day basis.

New Jersey has been a leader in developing legislative initiatives designed to assist law enforcement, the courts, and providers of victim services in addressing the needs of victims of domestic violence. But the development of innovative programs and practices referenced in our very comprehensive domestic violence law is, as it should be, a work in progress.

When the Division of Criminal Justice was designated as the administering agency to apply for grant funding under the Federal Violence Against Women Act -- or VAWA, as it has been referred to today -- we saw an opportunity to pursue funding for innovative projects. With the assistance of representatives of the service provider community, several State departments, county and local law enforcement, and the courts, the Division developed an implementation plan for VAWA grant funding.

The plan has been approved, and the State has been awarded \$426,000 in Fiscal Year '95 Federal grant funds. We are working with other participants in our VAWA planning process to implement several projects which may be of interest to this Committee.

For example, along with the Coalition for Battered Women, we will be producing an update of the domestic violence *Roll Call* police training video that was developed in 1991. The video will incorporate the 1994 amendments to the law. Until now, resources were not available for this project, but this multimedia training program will provide law enforcement agencies with flexibility in providing training and information on current domestic violence laws.

In addition, VAWA funds are being utilized to develop a training program for specialized domestic violence officers and to study domestic violence crisis intervention teams that have been established in the State. We will present a symposium on crisis teams and best practices in this area to encourage the further development of crisis intervention teams at the local level.

In addition, the State has been awarded VAWA funding to develop a domestic violence training program for municipal prosecutors. At this time, there is no uniform procedure in New Jersey for the prosecution of cases in municipal court. In some cases, a municipal prosecutor may prosecute the case. In other cases, the victim may be required to prosecute the case.

Under the new project, the Division will work with a county prosecutor and other members of the VAWA Advisory Committee to develop a multimedia training program for municipal prosecutors on trying domestic

violence cases. The program will illustrate a pro-prosecution approach to trying those cases when a victim may not want to participate in prosecution.

Once this pilot program is initiated, the Division will study the impact of these training efforts on municipal prosecutions in the demonstration county and compare them with other jurisdictions and courts.

Beyond its role as a domestic violence trainer, policy maker, and coordinating agency, the Department of Law and Public Safety provides direct assistance to victims of crime through the State Office of Victim Witness Advocacy.

ASSEMBLYWOMAN HECK: Christine.

ASSISTANT ATTORNEY GENERAL STEINBERG: Yes.

ASSEMBLYWOMAN HECK: I think each of us has your testimony in full, and it is quite informative. I think we're going to have a lot of questions for you. I hope everyone has kind of reviewed it.

ASSISTANT ATTORNEY GENERAL STEINBERG: Fine.

ASSEMBLYWOMAN HECK: I would like to-- Again, we mention the Victim Witness Advocacy Program. The State office has been very helpful, because in some instances, in some counties, it doesn't work as well as we would like to see it work. We noted that in the Hudson County case that came to our attention, but through the State Advocacy Unit, we were able to kind of mobilize that county. I think that is important to note.

I do also want to refer to some of the recommendations that came out of your review on the weapons seizures in domestic violence.

Is it OLS? (affirmative response) I'm sorry, OLS did this one.

I would like you to kind of evaluate.

ASSISTANT ATTORNEY GENERAL STEINBERG: Would you like me to jump to our recommendations and just review those?

ASSEMBLYWOMAN HECK: Yes, please.

ASSEMBLYWOMAN WEINBERG: Madam Chairwoman? Assemblywoman?

ASSEMBLYWOMAN HECK: Yes. I'm sorry.

ASSEMBLYWOMAN WEINBERG: Just before we get to that. There is a weapons seizure portion in your written testimony.

ASSEMBLYWOMAN HECK: Yes.

ASSISTANT ATTORNEY GENERAL STEINBERG: Yes.

ASSEMBLYWOMAN WEINBERG: I would just like to ask a question, because Assemblywoman Heck and I have a bill in, which has been in for quite a length of time last session and this session -- for some reason, I always have trouble getting it posted -- having to do with the seizure of weapons at the scene of a domestic violence incident.

It changes the law to say from "May" to "Shall" seize weapons where there is probable cause. I wonder if you could just comment on that, if you're familiar with it or--

ASSISTANT ATTORNEY GENERAL STEINBERG: I, personally, am not, but I will defer to my colleagues here on the panel.

Jane, are you familiar with it?

JANE A. GRALL: We are familiar with the bill.

Actually, with respect to the firearms issues, there are a couple of issues that we think might be addressed at the same time. There have recently been some Appellate Division decisions that have pointed out some difficulties

on issues regarding the firearms seizure. We would like to look at those new decisions and address all of those issues at one time.

We look forward to working with you on that.

ASSEMBLYWOMAN WEINBERG: As they address those issues, we would be interested in hearing vis-à-vis those court decisions.

MS. GRALL: Absolutely. Thanks.

ASSEMBLYWOMAN HECK: I think it is important, too, because some of the research done by OLS recommends not only how we talk about eliminating the requirement of mandatory return of weapons -- I think that is very important to address. I'm sure you have that under advisement as well.

We would like to have some input as to appropriate standage for judges to consider in determining whether to order forfeiture of weapons, applying standards applicable under the firearms licensing law, and the history of domestic violence. We would like the AG's Office to work with us.

Assemblywomen Weinberg, Allen, Murphy, and myself are very concerned, and hearing now from Kevin, we know he is interested very dramatically.

Kevin, I was really shocked at that.

But this is important. We also want to know recommendations in inquiring how the courts are interpreting that particular piece -- clarifying the intent of the forfeiture procedure.

I think it is important for us, Jane -- and we haven't done that as well in the past -- coordinating when we put the material together. Rather than having it done after the fact that you don't like something we're doing, we would rather work in conjunction with you -- in concert with you -- so we can

move these bills along more rapidly, because lives are at stake here. So if you could do that, we would appreciate it.

MS. GRALL: Yes, and we would really appreciate the opportunity, also, to work with you beforehand. I think it will be very helpful.

ASSEMBLYWOMAN HECK: Good. We appreciate that.

MS. GRALL: Thank you.

ASSEMBLYWOMAN HECK: Christine, do you have any recommendations?

ASSISTANT ATTORNEY GENERAL STEINBERG: Well, we have a few observations--

ASSEMBLYWOMAN HECK: All right.

ASSISTANT ATTORNEY GENERAL STEINBERG: --that maybe I'll pass on, and you can take them as you will.

As to our concerns and suggestions about the domestic violence laws and related issues, we have a few comments.

With respect to the term pro-prosecution strategy: Much has been written about the pro-prosecution approach to domestic violence cases. Indeed, we understand that we may hear more testimony regarding this issue today. This approach favors the collection of evidence and the preparation of cases in a manner which would facilitate prosecution without the victim. We support that approach to the preparation of cases and are incorporating it into our own training courses for law enforcement officers.

We would caution, however, that the term pro-prosecution is often utilized to refer to mandatory prosecution, about which we do have some concerns. We believe that a determination as to whether to proceed with the

prosecution of a case must remain a matter of prosecutorial discretion so as to allow for the evaluation of such factors as victim safety and strength of evidence when deciding whether to proceed with case.

We have a note about our training requirements as set forth in the law. The use of the phrase biannual in the Domestic Violence Act has led to some confusion in establishing training requirements under the law. The word apparently has two definitions: one which would allow for training every two years and the more common definition which would require training on a semiannual basis.

Given the subject matter, we have elected to be very conservative in interpreting the phrase and have instituted semiannual training requirements for law enforcement officers. However, this may be an issue that the Legislature would wish to clarify with the courts and with our office to ensure that all who are mandated to be trained under the Act are held to the same requirements. Our preference would be to require comprehensive training once every two years with supplemental training to be provided as necessary.

A note about process and paperwork that has been effected by the changes in the law: The provision for a dual-track system for filing domestic violence actions has, we understand, imposed significant burdens on police officers who are often required to spend several hours doing paperwork required in connection with those two types of proceedings.

We have been working with the courts to develop more streamlined procedures in this area, but we may need to bring issues to your attention at some time in the future in order to effect a more efficient system.

ASSEMBLYWOMAN HECK: May I suggest we get together with some kind of a subcommittee made up of legislators, people from your office, AOC, and the advocates -- including a couple from law enforcement -- and sit at a table and dissect this.

ASSISTANT ATTORNEY GENERAL STEINBERG: We would welcome that opportunity.

ASSEMBLYWOMAN HECK: Because we think the advocates bring to the table a practical, commonsense approach from the victims' point of view, and, of course, the law enforcement officers have their point of view on the day-to-day involvement, and, of course, the courts and yourself on another level. I think that is very important to incorporate.

We, as legislators, are trying to pull this all together, make it work to the best advantage to stop the violence -- that is our main concern -- and to put a mechanism together that will be truly effective on all levels. So perhaps we can do that after we finish with this oversight and review.

ASSISTANT ATTORNEY GENERAL STEINBERG: I think we've found from our experience in participating on the Advisory Council on Domestic Violence, on the Supreme Court Working Group, and even with our VAWA initiative that collaboration is really the key to solving a lot of these problems.

ASSEMBLYWOMAN HECK: Absolutely.

ASSISTANT ATTORNEY GENERAL STEINBERG: So we would, certainly, welcome the opportunity to do that with you.

ASSEMBLYWOMAN HECK: Very good. Continue with your recommendations.

ASSISTANT ATTORNEY GENERAL STEINBERG: Thank you.

We've mentioned the central registry. We strongly support the establishment of a central registry in concept. For some time, we have been working with the courts and with other law enforcement agencies in pursuit of this goal. We would caution, however, that in establishing a central registry requirement we must be cognizant of the fact that the technological unification of records among the courts and other law enforcement agencies is a complicated and expensive proposition that must be done carefully. We would be happy, again, to discuss this matter with you in great detail.

We have one more comment, and that is on the proposed simple assault upgrade. We understand that a motivating factor underlying the proposals to upgrade simple assault in domestic violence cases to aggravated assault might be to ensure that many cases are processed in the Superior Court rather than the municipal courts.

We believe, however, that an alternative to this approach would be to strengthen the system in the municipal courts. This is something that you've heard from our office on in the past. It is for this reason that we have proposed the training project for municipal prosecutors in our Violence Against Women Act Plan. We are concerned that the proposed upgrade of simple assault cases might lead to a backlog of domestic violence cases in the Superior Court. This, of course, may put victims in jeopardy and impose additional burdens on the court system.

We hope that this information has been of some use to you, and we certainly do welcome questions now or subsequent to this hearing -- after

you've had an opportunity to review our pounds of materials which we have burdened you with.

ASSEMBLYWOMAN HECK: Yes, you have pounds.

Assemblywoman Murphy -- who is dividing her time between Appropriations and this Committee today.

ASSEMBLYWOMAN MURPHY: Yes. I'm very interested in both issues and can't let either one go -- the age-old approach, I guess.

I'm delighted to hear you say that you would like to see more of these cases that could be kept in the municipal courts. I believe that is the arena where many women find -- or many victims, I should say -- more comfort.

In the county court system, there are so many people, often, that it becomes less personal. There is less feeling of security or less feeling of anything that is familiar for many of the victims of something like domestic violence. The municipal courtroom is usually in their town; there are some familiar faces around them. There is a whole different ambience, I think. I am delighted that you seek to keep as many cases there as you can. I recognize the difficulty of it, but I still think it is a very worthy objective, and we'll work for that with you.

ASSISTANT ATTORNEY GENERAL STEINBERG: We think it can be done though. Because we think the same principles that have made the system work at the Superior Court level, if imposed on the municipal courts, would certainly -- and the municipal prosecutors in those courts -- effect that same kind of result.

ASSEMBLYWOMAN HECK: Well, if you could expedite it from a year and a half to two years waiting down and danger time for the victims, I can agree with you. But you would have to convince me that we would handle the matter expeditiously through the municipal court system and, then, if necessary, bring more severe charges at a later date. But not when they have to wait two years, and then, it gets plea-bargained down to nothing after they have had three and four charges against them. That is unacceptable to me.

ASSEMBLYWOMAN MURPHY: I recognize that, Assemblywoman, I really do, and appreciate it. But I guess I was thinking more of the local--

ASSEMBLYWOMAN HECK: I know what you were doing, and I agree, too, if it is done expeditiously.

ASSEMBLYWOMAN MURPHY: Yes, okay.

ASSEMBLYWOMAN HECK: We can work that out when we get that small discussion group together.

Thank you.

Will you be here for a few minutes, because we're going to ask other--

Oh, I'm sorry, Diane. Yes, please.

ASSEMBLYWOMAN ALLEN: I'd like to ask about the paperwork. This has been brought to my attention by the Police Chiefs Association in my county -- Burlington County -- and also by a number of advocates.

There is a concern that, maybe, not everybody is choosing to follow through because there is so much paperwork. Maybe not everything is

done that should be done, because, I'm told, it takes four hours to fill out all of the forms.

ASSISTANT ATTORNEY GENERAL STEINBERG: We've heard reports of two to four hours. Of course, that involves spending time with the victim, as well, and probably breaking away to try and handle other cases, which, as we can all appreciate -- especially in a rural setting -- imposes an unbelievable burden on the police department. So we are fully aware of that. We hope we can solve most of it on paper, but if we need to adjust the process, we may need to come back to you -- in that smaller group setting -- and work that wrinkle out.

ASSEMBLYWOMAN HECK: Fine. Chief Eib is here today, and he is going to add to that, I'm sure.

ASSISTANT ATTORNEY GENERAL STEINBERG: Yes. We've had many discussions on this particular issue.

ASSEMBLYWOMAN HECK: Yes.

ASSEMBLYWOMAN ALLEN: I have actually spent some time with a number of officers from Willingboro, New Jersey, who have spent, literally, all of their time out on the street dealing with these particular cases. For that reason, they aren't really out on the street very much; they're some place else filling out paperwork.

I've taken a look at a stack of papers like this. (indicating) There seems to be so much duplication. It appears to me that we can come up with a much simplified form that we can then send to many different places. I understand it has to go to many different places.

Is that something that you can help coordinate?

ASSISTANT ATTORNEY GENERAL STEINBERG: That is something that we're doing or that we're, at least, trying to do. One of the things that we're realizing is that, while it may look like duplication, each of those forms is keyed into -- or could be keyed into -- a different system of technology. So while we're fooling with the forms, we have to be very sensitive to the fact that we've got to maintain the information, or the collection of information, in such a way that the law enforcement agencies and court--

ASSEMBLYWOMAN HECK: I'm going to-- I don't know if Debby Donnelly is here. Debby is working on the pilot program in Bergen. Debby has to leave.

Are you training officers today? You're training somebody today.

DEBRA K. DONNELLY: (from audience) No, I had someone else do that.

ASSEMBLYWOMAN HECK: Oh, okay.

ASSISTANT ATTORNEY GENERAL STEINBERG: We can certainly continue this--

ASSEMBLYWOMAN HECK: I know, Chief Eib, you can add to this, too, and, perhaps, we can kind of join the mechanism, because, I think, Debby has a process that they're working on, too. So, again, we can meet together in a smaller group and put it together.

But there are groups working in New Jersey without other groups knowing that they have accomplished a lot. I think it is important to open up that line of communication.

ASSEMBLYWOMAN ALLEN: That is why you holding this is so extremely important.

ASSEMBLYWOMAN HECK: That's right. Because there are people here who have things to add to this process, and we appreciate that.

ASSISTANT ATTORNEY GENERAL STEINBERG: We welcome any assistance, any input and--

ASSEMBLYWOMAN HECK: Oh, you're going to get a lot.

ASSISTANT ATTORNEY GENERAL STEINBERG: --we're certain that you want the same from us. (laughter)

ASSEMBLYWOMAN HECK: Oh, definitely, definitely.

ASSEMBLYWOMAN ALLEN: I'd be happy to hold further questions to the smaller group, then.

ASSEMBLYWOMAN HECK: Would you, please? Thank you. Thank you.

MS. GRALL: Thank you.

ASSISTANT ATTORNEY GENERAL STEINBERG: Thank you very much.

ASSEMBLYWOMAN HECK: I'm going to ask Chief Eib to come up, and I'm going to ask two of the advocates. Then, I'm going to ask the prosecutors to come up almost en masse, because they have to leave, I'm sure, to get their work done.

So, Chief, Debby -- would you like to just come forward with Elaine Meyerson, please? Because I know you have to get back to Bergen.

Chief, it is good to see you again. You are our biggest supporter on improving our domestic violence methods. We appreciate that. Come forward.

Is Elaine here?

ASSEMBLYWOMAN MURPHY: Yes.

ASSEMBLYWOMAN HECK: If you would begin, Chief, I would appreciate it.

CHIEF FRANCIS X. EIB: Okay.

Good afternoon, everyone. It's an honor to be here. Please excuse me if I'm a little nervous. I don't get to do this too often.

ASSEMBLYWOMAN HECK: No need to be. You do it so often and so well, you should not be nervous.

CHIEF EIB: Thank you.

ASSEMBLYWOMAN HECK: If you have notes, could you leave them with the gentleman to your left, please, when you leave? Thank you.

CHIEF EIB: Sure.

One thing I would like to mention is, yesterday I attended a roundtable discussion on violence against women. It was men discussing violence against women.

The goal of this roundtable is to develop strategies, whereby responsible men can take a more proactive role in confronting the continuing escalation of male violence against women and to exert influence, both professionally and personally -- through their various agencies, businesses, and institutions -- to communicate to other men that violence against women is socially and morally unacceptable and that men who commit violence will be held accountable for their actions.

I'm sure you're going to be hearing from this panel of men in the very near future. It was an all-day conference Chaired by Rev. Pastor Richard Hammond Price. I think that they are undertaking a wonderful program.

ASSEMBLYWOMAN HECK: It's very nice to hear.

CHIEF EIB: Yes.

One issue I would like to bring up this morning is the lack of communication in dealing with the Federal and State laws that law enforcement are required to enforce.

For example: In March, I addressed the New Jersey State Chiefs Association and discussed the Brady Bill and the Violence Against Women Act. The Brady Bill requiring that firearms permits not be issued if there is a permanent, final restraining order in effect, and the Violence Against Women Act, where we are required by that law to serve out-of-state restraining orders. I was surprised to learn at that March 1996 meeting that very few chiefs were aware of either of those laws.

Another example is, just this week, an assistant prosecutor was in our police department in South River, and I got a fax from the Division on Women -- which I requested -- on the change in the assault law, adding language to the aggravated assault statute. I gave a copy of that fax to the assistant prosecutor, who was totally unaware, in May, that that law had been passed in January.

So I don't know where the breakdown in communications is, but I think it's important that if we expect the law enforcement community to enforce these laws, they should be made aware of them as soon as possible after they are passed.

ASSEMBLYWOMAN HECK: Perhaps we should add to our legislation that as soon as it is enacted, this material be disseminated as quickly

as possible -- or within a certain amount of time -- to our law enforcement community and our prosecutorial community.

CHIEF EIB: The next issue I would like to discuss is the Domestic Violence Crisis Teams. I believe in the Domestic Violence Crisis Teams, and I believe they are working well. In Middlesex County, we have experienced a problem in training the volunteers who work in the communities because of the limited staff that Jackie Marich has at the shelter that provides the training for these volunteers.

They are volunteers, so the training -- which is 40 hours -- takes approximately three to four months. They are only able to work on one community at a time, so, therefore that has been dragging out for years -- to accomplish that training.

I think it is a program that gets the community involved working with the police. The volunteers have provided a very important and critical service to victims of domestic violence, and I think that the communities that are waiting for that training are waiting too long. I don't know what can be done to remedy that situation.

However, I worked with Jackie Marich and Chris Bond -- he is the Criminal Justice Planner from the prosecutor's office -- and we did apply to the COPS Program for funding for additional staff to train those volunteers. I'm hoping that grant will be awarded, but we haven't heard anything as of this date.

The other issue, again, is the pro-prosecution policy that was addressed. I'm glad that that is going forward. I think it is tragic that in 1996

-- in Middlesex County, for example -- that over 90 percent of the criminal complaints dealing with domestic violence are dismissed.

ASSEMBLYWOMAN HECK: Ninety?

CHIEF EIB: Over 90 percent--

ASSEMBLYWOMAN HECK: Oh, my.

CHIEF EIB: --are dismissed because the victim does not wish to prosecute the case.

I would like to refer to a letter I sent to our prosecutor in reference to that.

“The criminal justice system professionals are quickly discovering that the involvement of advocates at the first sign of conflict in the home can be crucial to preventing future injury.

“Effective, aggressive disorderly persons prosecution can prevent the violence from escalating to aggravated assault and homicide. When the system treats the single slap or punch as serious, the extended beating with repeated blows becomes even more significant in terms of criminal justice system response.

“Law enforcement protocols are emerging which address the need for comprehensive guidelines for initial response of police officers; preliminary investigation; evidence gathering; follow-up investigation; training; and advocacy. The minimum investigation must include interviewing all children and adult witnesses; recording all statements of victims; documenting all prior incidents; and taking photographs in order to allow prosecution to proceed even if the victim later becomes uncooperative.

“Another trend emerging in the criminal justice system is the age-old question of, ‘Why does she stay with him?’ being replaced with, ‘Why does he hit her?’ or, ‘How can we stop him from hitting her?’ It has been positive to invest resources in helping the victim and emphasizing her needs, but the negative result has been a criminal justice system which asks, ‘Why won’t she press charges?’ or, ‘Is she willing to prosecute?’

“By putting the responsibility on the victim for the criminal prosecution, prosecutors have unwittingly further endangered victims and have rendered them unable to proceed when so many victims become uncooperative.”

ASSEMBLYWOMAN HECK: That is a good point.

CHIEF EIB: “The solution to this vexing issue was to take the responsibility out of the hands of the victim and place it with the State where it belongs. The prosecutor is paid to be the prosecutor. The victim of a crime is neither trained nor emotionally able to act in the role of the professional prosecutor.

“There are no simple answers to this complex issue of domestic violence in this country. We are slowly seeing a consensus emerge within the criminal justice system as to what constitutes effective intervention in handling of domestic violence cases; establishing coordinated community responses; designing early intervention strategies; developing a focus on the abuser, rather than the victim; eliminating victim-blaming policies; and creating long-term accountability for the abuser within the system.”

I think it is important that these pro-prosecution policies be implemented as soon as possible. As I said, I think it is a tragic fact that over

90 percent of the criminal cases at the county level and at the municipal court level are being dismissed solely because the victim does not want to prosecute the case at the time it comes to court. I feel that that has to change for us to be able to protect victims of domestic violence.

ASSEMBLYWOMAN HECK: I think we're moving in that direction.

If you would leave your notes with Harry?

CHIEF EIB: Yes, I will.

ASSEMBLYWOMAN HECK: Would you like to ask any questions of Chief Eib? He has a great background of information.

Yes, Diane.

ASSEMBLYWOMAN ALLEN: Would it be possible to have someone other than a police officer handle everything once? The police officers go into the situation, find out it is a domestic violence situation; is it possible to take them to a central location where nonuniformed officers handle all of the paperwork and all of the processing or take them back to the individual municipalities and somebody else handles it? Is that being done? Are we going towards that? Can we go towards that?

CHIEF EIB: No, I believe it's important, since these are crimes and criminals that we are dealing with, that police officers handle the entire situation from beginning to end. I don't think that it would be advisable for a criminal act to be handled by a lay person even though they have special training. I believe that would be inconsistent with every other crime that we investigate.

I think these domestic violence crimes are some of the worst that we have to handle on a daily basis, and I think it's important that we follow through on our police procedures and prosecute these criminals at the local level.

I believe -- and I heard the discussion come up before about the municipal court versus county court-- I think it is much more convenient for a victim to come to municipal court. I think it is a nightmare to try and travel to a city. Transportation is difficult, parking is difficult, the waiting is long, and I think that the municipal court would be able to much better serve the victim in those cases.

I believe that in municipalities, the law enforcement community and the judges are much more familiar with the residents from that community and are much more able to decide whether to prosecute that case because of the history of violence that they have exhibited at that address.

ASSEMBLYWOMAN ALLEN: I understand all that you're saying, and I think I agree. I guess my interest is looking at just in filling out the paperwork, not making the important decisions, because obviously a trained officer is going to have a better handle on that.

Let's assume we can get the four hours of paperwork down to two; that still takes your people off the streets. That still puts a major burden on them. I'm just trying to see if there are other ways that we can handle it.

CHIEF EIB: Well, that is being done right now in Middlesex County. For example, some of these crisis teams that have been developed-- For example, in Woodbridge, a community of over 100,000, they have over 30

volunteers. They do assist the law enforcement community with the paperwork.

ASSEMBLYWOMAN ALLEN: They're all volunteers.

CHIEF EIB: They are volunteers, yes, though they are trained volunteers.

E L A I N E M E Y E R S O N: There is some question, though, about the legality of volunteers--

ASSEMBLYWOMAN HECK: Would you put your-- The red light has to come on. (referring to microphone)

MS. MEYERSON: It is red.

ASSEMBLYWOMAN HECK: Oh, good.

MS. MEYERSON: Just to jump on that, if you want them split up further, we're looking at that, as a whole, through the State coalition. But there is some question -- all the teams don't do paperwork -- as to the legality of the volunteers doing the paperwork. There is never an easy solution.

ASSEMBLYWOMAN ALLEN: Thank you.

ASSEMBLYWOMAN HECK: Elaine is with Shelter Our Sisters, and Debby is the Director of Alternatives to Domestic Violence in Bergen.

MS. DONNELLY: Okay. I'm going to apologize in advance for my testimony, because as I was writing it, I kept on thinking of things and I was trying to make appropriate segues into those things. So if it rambles at bit, I apologize.

My name is Debra Donnelly. I'm the Director of Alternatives to Domestic Violence in the County of Bergen. ADV is a domestic violence

counseling and advocacy program and is also the first and largest batterers treatment program in the State.

I am proud that New Jersey has one of the strongest domestic violence laws in the country. As the Director of ADV, I am in a position to experience, every day, the impact of domestic violence on its victims, and by victims, I include the abused, the abusive, and the children who suffer long-lasting harm merely by witnessing the abuse that goes on in their homes.

For all of us, home should be a safe place. For victims of domestic violence and their children it is anything but. I am also in a position to witness the impact of this crime on the community: how it strains resources, shatters the peace, threatens the lives of innocent bystanders, and thrusts whole communities into mourning.

I have the important responsibility of having to conduct an educational program on domestic violence for the 2500 employees of Valley Hospital in Ridgewood, New Jersey, in June. They have called us in to help them understand domestic violence: why it happens, how we can help victims and those who hurt those who they are supposed to love.

They have called us because one of their employees, Barbara Davidson, was killed by her boyfriend -- the father of their three-year-old child -- stabbed in the neck seven times, her body stuffed in a car, and left in a hotel parking lot.

How do I explain to these employees why their friend and coworker had to die, killed by a man with a criminal record including two sexual assaults? The first of these charges was plea-bargained down to simple assault, and incredibly, after the second charge, he was permitted to enter the

Pretrial Intervention Program for which he never showed up and to this day has not been held accountable.

How can I explain another case, the case of little Vaughn Henry who died after his troubled father forced him to drink cyanide? It was another custody battle, another case of "If I can't have him, you can't either." All the signs were there: a restraining order against the father, violence perpetrated against the mother in front of the child, and, as usual, the father had free and unsupervised access to the child. Somehow we still believe that a father who beats a child's mother -- often in front of that child -- is still a good father just because the physical abuse has not yet reached the child.

How do I explain these deaths, and how can I say that we, in New Jersey, with the strongest domestic violence law in the nation, are doing the best we can for our citizens? Can we, in good conscience, say that we have done all we can when women and children still suffer the ravages of domestic violence and are not believed when they are threatened or harassed unless they come to court covered in black and blue marks and, in some cases, even then?

The fact is that even with this strong law, our courts still do not universally understand domestic violence and are soft on domestic violence and other crimes which largely affect women.

I don't know what training has been actually provided or mandated for judges who are already sitting on the bench, but there are some judges who still accept the age-old idea that there is some kind of war between the sexes going on, and even those who are offended or outraged at assaults by men on women still fail to understand the subtleties, the width, the depth, and the breadth of the problem of domestic violence.

The domestic violence law provides a broad definition of violence, which includes many of the weapons in the arsenal of the controlling person, not just battering, but psychological violence, harassment, threats, false imprisonment. There is more. There is deceit, false promises, economic strangulation, and the need to cut the victim off from family, friends, and support groups.

We live in a society which has an ingrained bias against women. The courts are supposed to be a place where all people can find justice and safety. As it turns out, they are merely a reflection of the unfairness and gender bias in our society. But why should it be any different? Judges are men and women chosen from among legal practitioners through a political process with no special understanding of complex society issues. Like the rest of us, they need real training in the social/psychological profiles, characteristics, and dynamics of domestic violence, of controlling personalities, and of victims.

Without a strong training component, we are left with too many judges who think that in a large number of cases women make up domestic violence charges or seriously exaggerate them. We are left with judges who simply find it a puzzlement that victims stay in violent relationships, which really means that the judge does not believe that the violence is that bad, believes that the women must bring it on themselves, or believes that the victim is such a messed up person that they are either not being abused or somehow do not deserve the kinds of protection the law will allow.

We find judges saying, "We all know what women are like; they tend to exaggerate. They tend to make up stories in order to get their way." Judges who believe that when you accuse someone of being a perpetrator of

domestic violence, you are describing a brute who simply likes to, or goes about, slugging women.

When, in fact, what you are describing is a life-long manipulator, who attempts to control by using a whole arsenal of techniques and weapons which just happens to include battering on occasion. That life-long practitioner of manipulative techniques for control is also quite capable of manipulating the court system and manipulating the individual judges.

One of the reasons that victims remain in marriages and relationships that include violence is because of the manipulative, controlling personalities that can create the violence in the first place. Just as victims can be kept in a relationship such as that, judges can be manipulated to not believe the accused would do any such thing.

They can be manipulated by the cut of a man's suit, by the mild demeanor he presents in court -- while, at the same time, the victim is presenting out of sorts -- by the clever shading of truth that he delivers in his testimony, by the subtle biases against women that hit a cord within the judge's own upbringing and background.

Consider the following cases, which I have written down here and I believe will make your hair curl: In a nameless county, recently, a victim indicated that her defendant husband had tried to rape her. The victim told the judge that the defendant had bitten her thighs and that the marks were still there. The judge remarked that the bites may have been "foreplay" to get the victim "in the mood" for sex. The victim ended up in tears.

In another case, the same judge suggested that the police had pursued a vigorous investigation of terroristic threats against a victim either

because the victim must have been dating a cop in town or because she is an attractive woman. This victim, too, ended up in tears.

In another case, a victim was told that counseling at my agency, ADV, would merely get the parties to a divorce court more quickly. The victim was told that we do not do family counseling, which is untrue. The judge's clear implication was that domestic violence counseling for either or both of them could not possibly save the marriage.

The clear message here -- and I have other examples, but some of them are too rambling to try and quote -- is that the judiciary needs to be sensitized. Another message here is that no amount of training will make some judges sensitive to the issue of domestic violence.

I submit that the courts have to know who these judges are, as these matters are regularly mishandled by some judges. It is the responsibility of the presiding judges at the local Family Court or the Assignment Judge to transfer them out of this division. Human lives are at stake. Fortunately, there are places, such as Small Claims Court, where these judges can do less damage.

Additionally, I would like to inquire whether the county Working Group system is working. I have to say that, in Bergen County, our Domestic Violence Working Group has not met for over a year. Elaine Meyerson from SOS can back me up on this.

Also, how many repeat contempt offenders -- we know there are many -- are doing the mandatory 30-days jail time that is provided under the law? I would submit very few. The fact is, many judges are soft on contempt

because they don't want to see a person go to jail for mere harassment even if the harassment is in flagrant disregard of a court order.

When are we going to send a message -- yes, even in New Jersey, where we have the strongest domestic violence law in the nation -- that we take domestic violence seriously? Many defendants thumb their noses not only at their victims, but at the system. At least that is how I view the violation of a restraining order. With this conduct, abusers tell the court they will not obey the laws and orders of this State, and yet we let them get away with it time and time again. Because when the system does not act or when it acts too slowly, the contempt cases lose their sense of urgency and importance and are more difficult to prepare and prosecute.

Any law without appropriate implementation, enforcement, and funding for solutions is a nullity. When we fail to hold batterers accountable, we not only do a disservice to the victim and society, we empower the batterer and shift the balance of power and control even further in his favor.

It seems to me that the courts of this State have also fallen prey to what I call the cycle of attentiveness to the issue of domestic violence. We pay attention to it when it is in the headlines and are more cautious in handling these cases for a while -- after a woman or child is killed in our jurisdictions -- but then, eventually, go back to our old attitudes and ways until the next headline.

I just have to say this. Why did we interpret "biannual" as every two years? I would like to see it at least once a year, maybe twice a year, because you have to keep it fresh in your mind; even as advocates we have to keep it fresh in our minds.

I don't want to just hang this on the judges. Some of their so-called court appointed experts -- psychologists and social workers who do risk assessment and custody evaluations, child custody evaluations -- have little or no competence in domestic violence. They miss the boat on these issues whether they're in the headlines or not. This should be addressed.

We, in the field of domestic violence, do not have the luxury of avoiding this issue between headlines. We're in the trenches every day for all of the victims and batterers we serve, and we're grateful to have the support of Rose Heck, Loretta Weinberg, Carol Murphy, and the rest of this Committee in this war against domestic violence. You do not need headlines to act.

I just want to add two final points. Please keep in mind that the police and the domestic violence programs need money to implement and train crisis response teams. As a follow up to what Chief Eib said, you can't do this without some funding.

Secondly, we need, particularly in view of what can happen in the courts -- and I'm not damning all judges, I think many of them are quite fine. But you do need victim representation programs in every county, such as the one we have in Bergen and the one they have in Morris County -- the Domestic Violence Legal Advocacy Projects, which are staffed by volunteer attorneys but need to be coordinated with somebody who has to be paid to do that. We're losing money from IOLTA, because IOLTA is giving their money to Legal Services which has been ravaged and defunded by the government.

So you just need to think of these things when adopting legislation.

I want to thank you for the opportunity to speak to you. Thank you.

ASSEMBLYWOMAN HECK: Thank you.

Elaine.

MS. MEYERSON: (off microphone) Thank you. I'll be brief while I take you back on a few issues and extend on a few.

With the judges, education is just as important as attitude. One of my concerns is that often judges are placed in Family Court or the DVU to pay their dues -- sometimes is where they start -- and not really where they want to be. I don't know how those decisions are made -- as to why someone is placed -- but there should be some type of screening where, at least, a judge who is interested in that type of court would be placed in that court. Maybe that would make the education process a little easier.

I deeply respect Nancy Kessler and her efforts on behalf of the State. I'm one of the victims. I'm not sure I heard that biannual training was required -- was mandated -- it sounds like they're getting there, and talked about one of the larger orientations that we had almost two years ago as an education forum.

However -- and I guess I'm used to being in social work -- where most of the education comes about is really in a group process. As much as listening to the lectures, but then taking the information and sitting and doing value clarification, talking with clients, role playing, you know, much more active, interactive type of training. We have volunteers who bring in some clients who show films about client's histories. They get more from that than

they do from the lectures. So, again, maybe looking at the training process and not just the curriculum would be a suggestion.

The AOC requires that counties have a functioning Domestic Violence Working Group to be cochaired by the presiding Family Court judge, as well as the county prosecutor. This is a forum for individuals, groups, and the systems involved in DV to discuss issues, have an open dialogue, educate each other, identify gaps in services, as well as monitor the enforcement of the law.

This group is vital to the coordination of services within each county. Unfortunately, in Bergen, as in some other counties, this working group has not been functioning since December of 1994 when the county was required to send in our goals. It is not because Debby and I haven't tried. Possibly the DV working groups could be included in the law. It is not in the law at this time.

Other concerns about judges are often that -- we said they should stick to the facts -- they tell us to think about the facts. We hear lots of commentary and lectures from judges which is totally out of their realm. What they don't seem to realize is the power they have, that our women or plaintiffs come before them already disempowered, and, then, stand by an omnipotent judge -- whether it be male or female -- and how much they're affected by what they have to say.

One incident, where a DV incident was over cigarettes, the judge began to lecture about how bad smoking was for her. Already, at that point, she begins to lose her confidence in the judge -- her self-esteem issues.

We had a judge telling a client who gave her husband temporary custody because she was fearful of him -- and, at the time, had no place to live with her son, so she thought it would be best -- she was told by the attorneys this would be a consent order, "Temporarily let him have the kid. You'll get the kid back later."

So, when she went to her DV hearing which involved her restraining order, the judge decided, because of a risk assessment that was going to be done, that she would maintain the original consent order. My client, the mother, understandably, was totally destroyed. The judge said to her, "You're too emotional." One begins to lose their confidence in the system. This woman hasn't finished fighting the system, and it has been very difficult for the staff to get her through the process.

We also have had judges who allude that, "Didn't you get a restraining order because you had to, to get admitted into the shelter or because the shelter staff told you to get a restraining order," none of which is true. There is always this illusion that the women are out there to play a game, and we encourage women to make the wrong decisions for themselves. So we have problems around that.

I also ask you to revisit the harassment statute. We've had problems, too, when it comes to phone calls and letters -- that some judges do not believe it constitutes harassment. I'm not an attorney. I only live with one, so I'm not sure, but I really feel strongly that that needs to be looked at.

Lastly, I just want to speak to the Crisis Teams. The law says that the enforcement agency shall "either establish Domestic Violence Crisis Teams or train individual officers in dealing with DV." Those are really two different

things. I don't know if we have the money to require Crisis Teams, but they are two different things.

One is the liaison, and almost every DV liaison I've talked to in any department is totally overwhelmed. They are the ones who are supposed to do the training, do a lot of the training, do a lot of the crisis work, and review all the ROs as they come in.

But a team is a group of volunteers who come in and really work with the system, work with the police, work with the clients to teach them what their options are. I think we have a better chance of breaking that cycle if we had more time spent counseling and doing crisis work with the clients and taking that piece out of the police hands.

Many of us in this State have applied for a Federal grant called a CPS grant -- the Community Policing Program. We're all waiting to hear. Most counties have applied and, of course, 21 counties will not receive it. It is a national grant. But it just told us -- when I was at the coalition meeting, almost every director raised their hand that they have applied -- how much everybody wants and needs it.

I salute Chief Eib. Somebody in Middlesex has done a lot with crisis teams. There is not one in Bergen County. We need money. I understand, in Middlesex, the police departments or the municipalities are paying the agency at least for the training and are finding volunteers. At minimum, we all need training money, preferably to even hire a trainer who does the training and/or we were trying to get money to have a coordinator. When you have 72 municipalities--

So we have a lot of interest in Bergen, but it is the time and money that is missing, and it seems to be such an essential component. But, again, I would look at this piece of the law.

Thank you.

ASSEMBLYWOMAN HECK: Thank you very much.

Are there any questions?

ASSEMBLYMAN O'TOOLE: Chairwoman, just one statement and one question.

I would like to make a recommendation that these three panelists be included in the subcommittee, if it is at all possible. I was very moved by the testimony.

ASSEMBLYWOMAN HECK: These three individuals?

ASSEMBLYMAN O'TOOLE: These three here, absolutely. If that is the case, I'll save most of my questions for that panel. But I do have one question.

With regard to the counseling that Elaine spoke about: Is there any educational programs that are going forward in, perhaps, the grammar schools or the high schools educating our children? I think that Chief Eib said it best, we have gone from the question of "Why is she staying with this individual?" to "Why is he hitting her?" and "How can we stop that?"

So the question is, do we have any education going on in the high schools?

MS. MEYERSON: I'd like to have Debby speak to that.

MS. DONNELLY: We have a small amount of money through the social services block grant that, in part, funds a prevention through education

program that -- I don't go back this far, but -- I understand was a model in this State for going into the schools. We started out at the high schools. We're in the middle schools now to do educational programs around family violence, dating abuse, and rights in a dating relationship, because we know that these children are just replicating the patterns that they see at home.

We saw about 5000 students last year under that program. But, you know, we're just Bergen County. We go in by invitation. There is no mandated curriculum. We do send a letter at the end of every year with all the positive feedback that we get. But, again, we're in there by invitation, and it is only schools that have said they want the program. It is generally in connection with the family life curriculum. We're going younger and younger, but we still-- And we're getting our grant cut for that so that is the reward for good work.

MS. MEYERSON: Yes, Debby's grant was cut. I don't know, some agencies have community educators, but most of us don't have money to hire community educators. We go out, whether it be women's groups, a Girl Scout troop, or wherever we're asked to speak, as Debby's staff also goes out to speak.

ASSEMBLYMAN O'TOOLE: Chairwoman, perhaps at the subcommittee it is an appropriate forum to talk about-- There was a lot of talk about core curriculum. Perhaps we can talk about inserting this as a core curriculum where it is mandated in terms of education in all the schools, so it is just not in Bergen or in--

ASSEMBLYWOMAN HECK: Under family life.

ASSEMBLYMAN O'TOOLE: Absolutely.

ASSEMBLYWOMAN HECK: Well, remind me that we talk to Assemblyman Rocco about that before too much time passes.

ASSEMBLYMAN O'TOOLE: Okay.

ASSEMBLYWOMAN HECK: Because that is going to be locked in, and we don't want it to go by the boards.

Are there any other questions at this time? (no response)

Thank you very, very much. I appreciate it.

I'm going to ask the county prosecutors who are here: Sharon Ransavage--

Is Sharon here? (negative response)

Dennis O'Leary is here; Laura Hook; Harris Cotton; Mary White; and Kimberly Casten, is it? (indicating pronunciation)

We're going to get extra chairs, and certainly, each one of you will speak.

Are you going to speak first?

DENNIS O'LEARY, ESQ.: Yes.

My name is Dennis O'Leary. I'm the Sussex County Prosecutor. I'm also appearing on behalf of the New Jersey Prosecutors Association.

ASSEMBLYWOMAN HECK: Very good.

MR. O'LEARY: It was mentioned early, and the one issue I want to address -- I know others wish to address other issues -- is the question of what is the appropriate forum? What court is the appropriate forum in which to hear domestic violence cases? Whether it should be Superior Court, or should it be in municipal court?

Sussex County is the only county in which the cases are heard in Superior Court as opposed to municipal court. Even domestic violence cases that are disorderly persons offenses that would normally be heard in the municipal court are heard in the Superior Court. That is by design, and there are a number of reasons. My own personal belief is that is the way to go, with a caveat that I'll get into in a minute.

First of all, the Superior Court has the resources that the municipal courts don't have. My own personal belief -- and this is shared by the judge in my county who hears domestic violence cases -- is that you can simply move files, but that doesn't really accomplish anything.

Somebody comes in, he is verbally abusive to his wife, he is fined \$100. Fine. Next case. Then a month or two later he pushes her. Well, now it's a \$200 fine or, maybe, a weekend in jail. Close the file. Nothing gets solved. There is a lot of underlying-- In almost all of these cases, there are underlying problems. The problems may be alcoholism. The problems may be money. The problems may be the victim simply needs a support system to get out of the relationship.

It is very, very difficult, if not impossible, to address those on the municipal court level. It is just not designed that way. It is designed -- go see the clerk, pay your fine. Next, traffic case. Municipal court also lacks the privacy that the Superior Court -- or the anonymity -- is probably a better word -- that the Superior Court has.

One of the issues that I have heard repeatedly from many victims is that you have to go to court and you have to testify, sometimes, about some very, very personal, intimate things. One of the concerns victims have is, very

frankly, the perception in the community. To require them to go to their own community to go to court is something they find intimidating. When you're having to testify about some very intimate parts of your life, and in all likelihood, your next-door neighbor is sitting in the courtroom waiting to pay a traffic ticket, that has a very chilling effect.

Superior Court is not a closed court, but at least there is a little more anonymity, or you're a little further removed from the community. I see that as an advantage rather than a disadvantage.

Also, security for victims-- I come from a less built-up county. I won't say rural anymore, but a less built-up county. Municipal court is often at night. It is often at a firehouse or in a municipal building. It is dark, and it doesn't have the same built-in security features that a Superior Court has.

Remember, the victim is required to come to court, as is the defendant -- as is her abuser. It is a lot easier to physically keep them apart when you have sheriff officers and a system designed for that, rather than municipal court where you just kind of -- sometimes there is a court officer who is doing this thing, as well as checking in people, and doing a lot of other things trying to make sure that parties stay apart.

Also, in Superior Court, judges tend to be more aware of repeat batterers. People don't stay in one place. We live in a very transient society. Frequently, a judge, after a while, gets to know the people who are repeatedly before him or her. Regardless of whether they have moved from one town to another, especially with the lack of a central registry, that is simply not something that can occur in municipal court.

I know in my county, and I think in many other counties, we have a pro-prosecution approach. We don't dismiss domestic violence cases, except in extraordinary circumstances. That does not necessarily occur in municipal court. You have part-time judges, part-time prosecutors. They lack the resources to try to put one of these cases together. It does take some extra effort and some extra expertise to put together a case when the victim is not going to be testifying on your behalf, or, in some instances, actually testifying against you.

It also eliminates the necessity for the victim to make two court appearances if she is filing a civil complaint, as well as a criminal complaint.

ASSEMBLYWOMAN HECK: So you're pulling them together?

MR. O'LEARY: Pulling them together -- do the same thing all at the same time. Most important--

ASSEMBLYWOMAN HECK: Not every court does that then?

MR. O'LEARY: Actually, the only one that does it is Sussex County.

ASSEMBLYWOMAN HECK: Sussex?

MR. O'LEARY: Right.

Also, there are a lot of victim services available in my county for victims of domestic abuse. My office works closely with them on the Superior Court level. They lack the resources to go to every municipal court in a county, so they just can't be there. They are always at Superior Court.

When we have domestic violence hearings, they are there. In our county we call them DASIs -- Domestic Abuse Samaritan. DASIs are always there. Victims who wish to dismiss complaints are referred to DASI before, in

fact, they are permitted to dismiss the complaints. They have the opportunity for the counseling. They have the opportunity for the resources that just aren't there on the municipal level.

Sometimes to simply say, "Do you wish to proceed with your case?" and the answer is, "No" -- "Okay, case dismissed" -- isn't enough. In my county, I have an Assistant Prosecutor who handles all of my domestic violence cases. When he is unavailable -- on vacation or whatever -- I personally do it, because I think it is an important thing to do.

I had a case -- I was covering cases for him a month or so ago -- where a woman wanted to dismiss a complaint. She said, "There is no need for a restraining order any more because the man is in Florida. He has left the jurisdiction." Well, we indicated that we weren't going to dismiss the complaint. We were going to get a warrant out for him.

Through some investigation, we found out that he was actually not in Florida. He was back in her apartment. He had directed her to go to court to dismiss that complaint, or else. Obviously, we arrested him for tampering with a witness, and he is still in jail.

But you can't just simply say, "Okay, dismissed. Next case." You have to spend some time on these cases. You have to do something more than simply move the file and go on to the next file.

Having said all of that, obviously, my personal preference is that cases -- if you're going to do this right-- I mean, it's a lot of work, but if you're going to do it right, you should do it in Superior Court. Having said all that, I would urge you don't just pass a law saying "Send it to Superior Court"

without also appropriating the necessary funds to do it. You're going to do more harm than good.

The system in municipal court, at least it works. It doesn't work as well as it could, but it works. If you just said, "Every case goes to Superior Court, nothing is heard in municipal court," and didn't provide the appropriate resources, especially for the larger counties, what you would do is, basically, take away the only remedy that domestic violence victims have right now. You would be waiting days in some counties, weeks in some counties, in fact, for your case to even be heard, and whatever remedies we have right now wouldn't exist at all.

ASSEMBLYWOMAN HECK: Thank you very much. I'll comment later.

We know we have two people from Gloucester, don't we?

MARY K. WHITE, ESQ.: Actually, we have one.

ASSEMBLYWOMAN HECK: Oh, all right.

MS. WHITE: Hi. My name is Mary White. I'm an Assistant Prosecutor in Gloucester County. I know that Harris Cotton, my prosecutor, is on your list of witnesses, but he also extends his apologies. He is unable to be here today.

I want to say that I'm really happy to be able to get the chance today to tell our story in Gloucester County. It is similar to Prosecutor O'Leary's story, but with a slightly different twist at the end, presently.

We know that New Jersey has some of the strongest laws in the nation on both civil and criminal protection, but we also believe that much needs to occur, including this kind of public discussion, before we really move

that law along to where this is a State where domestic violence is truly not tolerated.

I handle most of our domestic violence cases in the county. In Gloucester County, we have a population of about 250,000 people. In our opinion, effectively criminalizing domestic violence is absolutely essential to reducing, preventing, and ultimately, ending domestic violence.

We have not yet achieved significant success with the routine prosecution of domestic violence crimes and offenses in this State. This is particularly true of disorderly persons matters, which make up the great majority of cases. We believe about 90 percent of the cases are disorderly persons offenses by nature.

These cases, as you know, are normally heard in municipal court, but there are court rules that do allow the Family Court to assume jurisdiction over them. They can either be heard in concert with the civil domestic violence complaint seeking a restraining order, or they can be heard separately on parallel tracks. That is how we were handling it in our county.

I think that the consistent prosecution of domestic violence offenses, where that is possible, achieves a number of public policy goals that underlie our Act that may not be achievable otherwise. We increase the safety of victims of domestic violence and their children through arrest, through bail conditions, which often really reinforce the provisions of a civil restraining order. We can only do that with our mandatory arrest policy, but I think also with the promise that we're going to be able to carry through on these when possible.

We increase the safety of domestic violence victims and their children following convictions with sentences which include probation supervision, batterers counseling, and, when needed, substance abuse counseling and sanctions, such as incarceration and community service when appropriate.

In addition to those elements I just mentioned, we also then, with a conviction, have the ability to increase our response over time if, in fact, an offender continues to reoffend.

By holding offenders accountable for their behavior, we reduce the risk that they will reoffend. By holding them accountable, we will change the public perception that battering behavior is a private family tragedy to the perception that it is a crime with predictable, negative results and consequences for the offender.

In 1994, according to the State Police DV statistics, there were approximately 25,000 arrests for domestic violence crimes and offenses in New Jersey. We don't know -- as I understand it -- without a case-by-case audit what the disposition of those cases were. But we do know how many people were on probation for domestic violence offenses in 1995, and that number was 1166. As you can see, that number is only 5 percent of the number of statewide domestic violence arrests for the prior year.

In Gloucester and Sussex Counties, programs which provide for the trial of many disorderly persons offenses in the county Family Court were started, I believe, in 1992.

I'm speaking for myself, but I'm getting an affirmation from Prosecutor O'Leary.

As I have already stated, existing Family Court rules allowed us to do that. As a result, we could provide experienced, specialized prosecutors with the ability to use our own offices for victim witness services and resources to prosecute even disorderly persons cases, whether they were initiated in that fashion or whether they needed to be downgraded based on the evidence and then remanded -- but rather than remanded, transferred to Family Court.

The same prosecutor and staff can work with the victim from the beginning of the case to the end. We can use pro-prosecution evidence gathering techniques and protocols to enable prosecutors to actually prove those crimes and offenses, in many cases, even with a reluctance or the nonparticipation of the victim.

The Attorney General's materials, that you heard talked about in earlier testimony, are an excellent comprehensive tool for teaching these practices to local police officers. In our office, we have a specialized victim witness advocate who attends all civil restraining order hearings, so we can find the victims there. It is a form of outreach.

We are not there to represent them -- they are on their civil restraining order application -- but, rather to meet with them and learn about safety issues, bail issues, substance abuse issues, injury issues, whether follow-up photos are needed, and other issues as well. That has been very successful. We started that with volunteers and now have a paid part-time staff person doing that.

At the end of 1995, Gloucester County reported 305 persons on probation for domestic violence. That number is 37 percent of the number of

persons arrested in our county the prior year for domestic violence offenses, as compared to the 5 percent I cited earlier for the statewide average.

All but 15 of those cases were handled in Family Court as disorderlies, including restraining order violations, in the county prosecutor's office. I think it is noteworthy that during that time a good half of those mandatory arrests were heard in municipal court, but again, only about 15 of the probation dispositions came out of those courts.

Again, we are only 3 percent of the population of the State. In 1995, 25 percent of the people on probation for domestic violence came out of our county. This did not occur because of extraordinary luck or advocacy skill on the part of our office in prosecuting these cases. It did occur, I believe, because the police, our advocacy community, our shelter agency, our probation department, our county prosecutor -- Harris Cotton -- worked together towards the same end, and we were able to obtain these results. I believe the results can be replicated in other counties.

Studies show that arrest followed by supervised probation and batterers' treatment programs does reduce recidivism rates, but one of those items alone does not make the significant impact that we are looking for with our comprehensive laws in this State. Only the successful prosecution of domestic violence crimes to the extent possible will really achieve the ability to put all three remedies into place in any given case.

I need to say that we are a smaller county, statewide -- I think I said that in a couple of different ways -- and, if you will, we were able to pilot this program on our own initiative without seeking additional funds. But as you heard in earlier testimony this morning, eventually the caseload caught up

with us and the courts had to terminate our program. We had sufficient resources to continue.

Again, we have the new part-time position of somebody who goes to Family Court -- a victim witness advocate -- to speak to victims. But in any event, that is a reason that we can, at this time, no longer do that program.

We do not suggest, as Prosecutor O'Leary indicated, mandating that this kind of prosecution occur in all county courts throughout the State, by all county prosecutor's offices without the funding that would be necessary to do that. Policy planning in the area would need to also include projecting for increased probation officers who specialize in this type of caseload, as well as the batterers counseling resource.

In Gloucester County, just for example, in 1992, we had 20 people on probation for domestic violence. At the end of 1995, again, we had 305. So that was a big increase in caseload for our probation department.

We would request that the Legislature continue establishing the resources to continue to pilot or model this form of case handling. We request that the Legislature consider providing direction that would, in fact, permit a prosecutor's office to transfer domestic violence, disorderly persons offenses -- other than restraining order violations -- to Family Court. In this way, again, prosecutors can develop and use pro-prosecution evidence gathering and trial techniques to increase the number of statewide people who have been convicted of domestic violence offenses and crimes with which they were charged.

We recommend that resources be developed immediately which would provide to municipal prosecutors to begin to implement pro-prosecution

techniques in municipal courts. It is essential that a mechanism be established to allow us to comply with the provisions of the Domestic Violence Act that presently exist that require that all prosecutors -- whether municipal or county prosecutors -- account for each dismissal of a domestic violence matter -- as to the reasons on the record.

As a final comment, I would like to say that instituting a no-drop law was not necessary to achieve the results that we obtained in Gloucester and in Sussex County. We believe it would be counterproductive and dangerous to domestic violence victims in many cases if it were a no-drop law, as compared to a pro-prosecution policy. Given the right resources and structures existing, New Jersey statutes are adequate to develop good pro-prosecution policies.

If I could, I would ask you to consider planning for a “court of dreams,” because if you build it, we will come. We will do our work.

Thank you.

ASSEMBLYWOMAN HECK: Thank you very much.

Now, we have Ken Keller. Ken Keller is here.

Ken.

KENNETH KELLER, ESQ.: Thank you, Chairwoman Heck and members of the Committee.

You’ve heard a great deal of testimony today. I don’t want to go over familiar ground, as you’ve already heard. I would just like to make a couple of very quick observations, particularly with regard to training of police officers.

In my 20 years as an assistant prosecutor in Monmouth County, I have never seen or experienced any area that police have to deal with in enforcing laws where they receive more training than in the area of domestic violence. It is very necessary; we all agree with that. It is enthusiastically done, believe it or not, by police departments who have adhered very strictly to the statutes that you have written in the past.

It is done from the beginning at the Police Academy, where days and days are devoted to training in domestic violence, to countywide trainings that are done in Monmouth just as well as all other counties, and very importantly, on a local level in police departments. I think you have to understand how much goes on at that level.

If you're wondering how your law is working, at least in terms of training, it is working well, as Mary mentioned a moment ago. The materials prepared by the Division of Criminal Justice are very, very helpful in allowing us to train and, also, for the police to do it on their own. There are training manuals that, basically, let them train their own police departments, and they work quite well.

With regard to one other area, as Chief Eib mentioned before, the dismissal rate of probably 90 percent or higher, I think you should recognize that that is not just in Middlesex County. I'm sure that you would find that throughout the State. Most of that is happening at the municipal court level, because that is where the cases are. That is where most of the domestic violence cases are. They are disorderly persons offenses. At that level, prosecutors don't have the training that county assistant prosecutors have.

In Monmouth County, we were very fortunate to have an active Municipal Prosecutors Association. Coincidentally, just this past weekend we did train them -- the prosecutor's office trained them in the area of domestic violence.

ASSEMBLYWOMAN HECK: I think, then, all of you should be around when we talk to the AG's Office about this. It's important.

MR. KELLER: I believe that there is a recognition throughout the State that this is important, and there are training programs that are getting under way. In fact, I think, as Laura Hook will probably tell you, there will be a model program that we hope to replicate throughout the State.

But at this point, you have municipal prosecutors who, perhaps, don't have the expertise. The pro-prosecution model that is really taking hold throughout the State does not exist at the municipal level for a lot of reasons, because of that lack of training, but, probably more importantly, due to the part-time nature of those courts.

You're talking about-- As Prosecutor O'Leary mentioned, there are people at night, part-time prosecutors, part-time judges, and if a victim indicates some desire to withdraw or dismiss a complaint, everybody gets to go home a little sooner. That is something that is a reality.

As far as transferring to the Family Court, I would agree with what has been said here. I would ask you not to mandate that, simply because without a tremendous increase in resources even the smaller counties could not deal with that, and I'm from, I suppose, a medium-sized county; although, each year, for some reason -- I think due to training and aggressive enforcement -- Monmouth ends up about third in the number of domestic

violence incidents, even though in areas of criminal case types, we're not nearly that high. But, again, that gets back to training.

I would just urge that some assistance -- and financial assistance is a hard thing to talk about and support these days-- In the municipal courts, they need the assistance there. The victim advocates are not there. The training for prosecutors, which we hope to provide, will be of assistance. I think that as long as those cases -- and most of those domestic violence cases that are in the system are at that level. A lot of attention needs to be placed there.

Thank you.

ASSEMBLYWOMAN HECK: Thank you.

Laura Hook. If you would move that smaller microphone, because we're taping all of this. It will be printed up. We will have a transcript of this from which we'll work to make the necessary changes.

Laura.

L A U R A H O O K, ESQ.: Thank you very much for allowing me to speak before the Committee.

I am an Assistant Prosecutor in Union County. I have been working exclusively with domestic violence cases for the past five years. I have to agree with all of the comments that have been said so far and with the comments that the Law and Public Safety -- the Attorney General's Office -- commented on. You do have a wealth of people right here who would like to meet with you to talk about some of the specific things that can be done so we end up with something that is workable, that we don't end up causing more problems for victims than they need.

I would like to talk about training, because what we have seen from that huge manual you have from the Attorney General's Office is a great improvement in the law enforcement response to domestic violence. As prosecutors at the county level, we receive much more evidence: 911 tapes, more photographs, more statements from victims.

One of the hardest things to do is prosecute a case when you don't have a cooperative victim, and the victim really is your only witness. That may account for some of the high rates of dismissals or downgrades to the local court level. We are developing every day, with the Attorney General's Office, new ways to try to combat dealing with those cases or, at least, come to an effective resolution that may result in the dismissal of criminal charge, but result in other avenues of protection for a victim or counseling for a defendant in domestic violence.

As far as municipal prosecutor training and the municipal courts go, the training program that we are working on through the VAWA grant money that will be demonstrated in Union County is because we are a large county. If we try to replicate what happened in Sussex and Gloucester, I can't even begin to think of how many more prosecutors, judges, victim witness counselors, and investigators we would need to effectively do that in our courts in Union County.

We are one of the counties that the State Police half-year report on the increase of domestic violence indicated that there was a significant increase in the number of cases in our county. If most of them are simple assaults, like we can imagine, that would just put an immense, undue burden on the county level.

In the alternative, the counties that cannot do what Gloucester and Sussex have done should have strong municipal court training for their prosecutors so they have the understanding that we have. Their judges should receive the same training. I recently just did training for our municipal court judges, and they -- before I even mentioned municipal prosecutor training -- volunteered to help, volunteered their courtrooms, and were ready to jump in and say, "We need to do this together."

We happen to have several municipal court judges, especially our presiding judge, who believe very strongly in combating domestic violence. They have been able to do some very innovative sentencings in municipal court and handling of the cases that they would love to see other courts do the same thing so that victims, who may be fearful of proceeding, can still end up with a defendant who is mandated into counseling, which is the one thing we do know makes a difference in domestic violence cases.

I do suggest that when we look at counseling, we may want to look at not mandating a specific time period, but allowing the judges to understand that one year is better than six months and talking to the counselors about what might really be necessary when they are doing a sentence of that particular nature.

I would also like to comment on one question that was posed to Chief Eib about assistance for police officers. I do have to say that in dealing-- I do all the training at our police academy on domestic violence. In dealing with our liaison officers, they have explained that there is a way to have assistance for police officers in the avenue of handling the restraining order

applications, calling the judge on the phone in the middle of the night, and going through the restraining order.

During the day, that is handled by a court staff member, not a law enforcement member. At night, if there were a civilian position that could help a police officer in that avenue, that would relieve the police officer -- especially in the larger urban communities, where they have 30 and 40 calls backed up before a response can get there -- to get and gather the evidence, arrest the offender, take the statements that are necessary, and have the victim working with somebody who can calmly and quietly, not in a rushed fashion, call the judge and get the restraining order. I think as we work on downsizing the forms and streamlining that will also save time, as well.

I would just urge you to be very careful about taking what may be working in one county and mandating replication statewide, because our counties are very different in our makeup. We have different cultures, socioeconomic groups, different religious factors we have to deal with, the size, the resources that are available are very different. So we have to be very careful of saying what works in one county will always work in another county.

Thank you.

ASSEMBLYWOMAN HECK: Thank you.

Kimberly Casten.

KIMBERLEY CASTEN, ESQ.: Yes, I'm the Assistant Prosecutor from Ocean County.

ASSEMBLYWOMAN HECK: Cumberland? Oh, Ocean.

MS. CASTEN: I've been handling domestic violence cases since 1992 with Prosecutor Carluccio of the Family Protection Unit in our--

ASSEMBLYWOMAN HECK: I'm going to ask, can you hear that, Harry? It's all right? (affirmative response) Good. Thanks.

MS. CASTEN: I don't want to repeat what has already been said by my worthy colleagues -- being last -- but I do want to stress that much of the problem lies with the municipal court prosecution of these cases.

I know in our county, we don't have jurisdiction over the municipal prosecutors, therefore, the training is going to be very welcome from the AG's Office to the municipal prosecutors on how to handle these cases.

However, there does have to be one component looked at, and that would be where a complaint for the simple assault is filed by the victim -- civilian complaints. In our county, many of our municipalities do not have the prosecutor prosecute these cases. The victim has to do it herself or, in some cases, himself. That is very frustrating, nerve racking for the victim, who has no experience with the law, and that accounts for many of the dismissals in these cases. So I think that has to be closely looked at.

ASSEMBLYWOMAN HECK: While you're all here -- and you're all prosecutors and you get many cases-- I received a call about a young woman who was a victim of domestic violence two years ago. In her case, she was hit over the head with a hammer and there was damage done. In the last couple of years, she has gone through a terrible time of seizures and just about three weeks ago had to be operated on to relieve the amount of seizures she was going through. She apparently had fallen after she had that operation and is now in a coma and close to death.

When I called about the fact that her husband might now come forward to take the three children away from this woman's mother, I was told

that charges could not come down, because I didn't realize the act was committed in Virginia. She is in New Jersey now, dying. They are afraid that the husband will come in to take the three children away. He is a very wealthy physician.

Perhaps you, as prosecutors, can help us to put together a request at the national level, the Federal level, to make it allowable that charges and case histories coming from one area to another can be enforced. Because I was told that even if you brought charges against him -- and you can't because it's another state. You could have done it if it was from one county to another in New Jersey.

MR. O'LEARY: Well, I'm a little unsure of the question. Does it relate to the custody issue or the criminal?

ASSEMBLYWOMAN HECK: I think they're trying to keep him out of the State so he won't come in and take those children away.

MR. O'LEARY: If the kids are in New Jersey, New Jersey courts have jurisdiction over the issue of custody. A father does not automatically get custody of children when a mother dies, especially if there is a court order to the contrary. If New Jersey issues a court order for custody, the State of Virginia is required to -- under the full faith and credit clause of the United States Constitution -- adhere to that decision. So whoever the kids are living with, that person should be making an application to a New Jersey court.

ASSEMBLYWOMAN HECK: Prior to anything happening?

MR. O'LEARY: Precisely. You don't have to wait until someone--

ASSEMBLYWOMAN HECK: That is the part I know about, but there was another matter. He said we could issue a summons if this occurred -- wrongful death, I think he said.

MR. O'LEARY: Oh, sure. That is a civil concept.

ASSEMBLYWOMAN HECK: Yes.

MR. O'LEARY: The kids -- the children -- have a standing to bring a wrongful death action against the person who caused the wrongful death of their mother, even if that person happens to be their father. The mere fact that you're not an adult doesn't mean that you are precluded from doing that, and the mere fact that the defendant happens to be your father doesn't preclude you from doing that. Actually, O. J. Simpson, that is precisely what that case is about right now -- the civil case is a wrongful death action.

ASSEMBLYWOMAN HECK: The civil end. Okay. Thank you.

But I think there are some things that are now allowable from state to state, but we'll talk about that in a smaller committee. That is what I'm afraid of, that this is such a broad area. These people do move from state to state, just the way pedophiles move from state to state -- child abusers move from state to state.

MR. O'LEARY: There is a great deal of transience among Americans, not just criminals, and that is a real problem. That, again, is a real argument in favor of a central registry.

ASSEMBLYWOMAN HECK: Are there any questions?

ASSEMBLYMAN JONES: Yes, I do.

ASSEMBLYWOMAN HECK: Assemblyman Jones.

ASSEMBLYMAN JONES: Thank you, Madam Chair.

Now, just looking at some notes, one expert had indicated that 98 percent of all the domestic violence complaints that are filed are dropped and that many of those charges are downgraded and are downgraded to a disorderly persons offense. Does that sound somewhat accurate?

MR. O'LEARY: Well, I think the number offered, if I recall, was 90 percent. That has not been my experience. I don't propose to speak for the others. I don't know where that number came from. I think that may involve civil complaints, in which the issue of whether a complaint is dismissed or not is purely at the discretion of the plaintiff, in that case, which would be the victim.

ASSEMBLYMAN JONES: Where I'm sort of going is that there seems to be a tendency -- whether it's 98 percent, 90 percent, a large volume of complaints are dropped or downgraded, and it sort of leaves a question as to why, or what are some of the reasons that domestic violence matters are downgraded? That is what I would like to -- if any one of you would care to share with us--

MR. O'LEARY: An assessment has to be made by the prosecutor, one, as to whether the charge was initially filed appropriately. A police officer or any citizen can file a complaint, in essence, charging anything. Assuming that a probable cause initially was established by the person taking the complaint, that doesn't necessarily mean that once the police reports come in, once the facts come in, once the people are interviewed, once medical reports come in that that was the appropriate charge.

So one of the functions of a prosecutor is a charging responsibility, to look at a statute and look at the facts of a case and determine whether the

appropriate statute was applied to the facts of that particular case. In many instances -- in fact, a very high degree of instances -- I make a decision or people from my staff -- or other people here -- that if this case was allowed to go to prosecution under that statute, the State would lose simply because it's the wrong statute. The elements that are required under the particular statute charged are not present in this particular case. Sometimes it means lessening the charge. Sometimes it means increasing it, very frankly.

I've had any number of cases where the charge is eluding -- is an excellent example. I get it all the time. Police continue to charge third degree eluding. It is a second degree crime, and we're continually moving it up. I've had victims come in and charge simple assault when, in fact, it was an aggravated assault. We moved it up and presented it to a grand jury.

So, yes, there is changing, but the changing in the charge doesn't have so much, necessarily, to do with the fact that we don't think it's important as that it's just not the right statute that it is being brought under.

Obviously, also, at some point, you have to evaluate your case. If the only defendant-- If we have a defendant and we have a victim, and those are the only two potential witnesses, and the victim moves, let's say, to California, we have a serious problem in terms of prosecuting the case. An evaluation in that case has to be made. Do we proceed under the initial charge, or do we take the proverbial half a loaf?

I don't know a prosecutor in this State who would say, "I have a good case. I have a solid case. Ah, let's just downgrade it for the fun of it." Good cases are what we look for.

ASSEMBLYMAN JONES: I wasn't suggesting that, but the percentage of complaints dropped is, to me, alarmingly high. Those number of cases that apparently were being downgraded seemed to me, when you look at the victim, very high. Just some of the documentation that I've read has indicated that prosecutors are trying fewer cases primarily due to the victim's intimidation to testify. I can understand how that sort of leads to less cases being tried. The downgrade issue, I don't know how that sort of segues into that.

But I was also wondering whether or not is a backlog -- or could a potential backlog be part of the reason for the downgrade process?

MR. O'LEARY: I'll let each of these two people answer on their own. I've never really even thought of that in the context of how to-- It never enters my mind. It's something that I know--

MS. HOOK: The one thing I wanted to add is, there are many circumstances that go into the evaluation of handling a domestic violence case. That is why understanding the dynamics of domestic violence has become so important to prosecutors.

When you understand the cycle of violence-- There is a phase they call the honeymoon phase where the defendant starts making promises to the victim, where the victim starts to believe that the defendant is now never going to do this again. This is a relationship that they want to be in. They want that old relationship without the physical violence and the controlling behavior, and if the defendant makes a worthwhile promise to them, they may say, "I'm going to go into court and testify for him."

I had a victim, yesterday, tell one of my prosecutors in my unit, "I'm going to lie. I'll tell you right now what I'm going to tell the judge, and it's going to be a lie." Now, we have an ethical obligation not to put on perjured testimony. I know what happened in that case. I know what that defendant did to her. So, through the municipal court judge, on another case -- there was a simple assault case in the court where he assaulted the police officer -- the judge said, "Fine. I'm going to make him go to batterers, because the assault on the cop was out of the arrest for the domestic violence." So we had a judge who said, "I'm going to get what I need out of this case," even though it appears that it was, maybe, a downgrade because it was handled in municipal court.

We have to also look at victim's safety. Many victims will tell you, "This is what will happen if I testify. I have been told this and this before. I have testified before and been injured worse. I'm leaving the State and moving somewhere else. I'll be gone in three weeks." In some ways, it is safer for that victim to leave than it is to prosecute that particular crime.

I think now, with our new third degree assault statute, there will now be a lessening of some of the downgrades because there was such a disparity between simple assault and second degree aggravated assault. We now are going to be able to, hopefully, use the third degree aggravated assault to take up some of that slack that was in between those two charges.

MS. WHITE: I'd also like to respond to, I think, another aspect of your question.

I think from our office's point of view the question, right now, for us might be more, "Why are so many disorderly persons offenses being

dismissed?” rather than, “Why are so many charges being downgraded?” What I would like to say is, in the jurisdictions that have developed pro-prosecution policies and investigations, they have learned to get enough evidence that you can go forward without the victim. So an offender intimidating or frightening a victim will not work. But there are still many cases where that just can’t happen, because of the reality of the investigation.

We learn of the assault a day later, for example. We don’t have that kind of evidence. If we teach police to gather this evidence, but, however, we are not putting them in courts where anybody realizes they can use that kind of evidence, police will stop getting that kind of evidence and do other work not because they don’t want to help, but because they know their limitations and time limitations as well.

In the jurisdictions, as I understand it, that have worked hard on the pro-prosecution policy -- Quincy, Massachusetts; San Diego, California; etc. -- when they talk about drop rates, they break that discussion up into two parts, corroborating cases -- cases where you could go forward without the victim -- and uncorroborated cases, where everything really hangs on the victim.

I think we all agree, at this table, that threatening her -- us threatening her -- in that circumstance isn’t going to add anything to the family’s safety or her safety. You know, threatening her, “If you don’t testify, we’ll charge you, or we’ll jam you up in some way,” isn’t going to help.

So it’s getting those corroborated cases and getting more of them. We can get that from the police. The Attorney General’s materials cover that very well. We know what to do. But if we train police to do that and they

have no where to put it, they're going to stop doing it, and we'll be back to blaming the victim for going back rather than blaming the criminal.

ASSEMBLYMAN JONES: Thank you.

ASSEMBLYWOMAN HECK: Are there any other questions? (no response)

Thank you very much. I appreciate that. We'll be calling on you for information as we get together in the smaller group. Thank you.

If you can come up with any other recommendations, just drop us a line, please.

Linda Bowker and Carol Vasile.

Linda is the Director of the Division On Women.

L I N D A B. B O W K E R: As the Director of the Division on Women, I'm pleased to present testimony to the Committee based on our current work in the field of prevention of violence against women and, more specifically, the implementation of the Prevention of Domestic Violence Act.

Our testimony will support efforts from other speakers who you have heard from today, both from the public and private nonprofit sectors, to focus on areas of success of this Act and the areas where growth is indicated.

This statement is partially drawn from a report from the Advisory Council on Domestic Violence, which is tentatively scheduled for release this summer. The Advisory Council report focuses on recommendations related to domestic violence with broad scope and definition. This statement today is also drawn from our experience in the field and anecdotal reports from constituents.

It is my intention to speak to four areas as follows: The 1994 amendments to the Prevention of Domestic Violence Act; the effects of domestic violence on children; training relevant to a community response to domestic violence; and pro-prosecution policies.

The substantive areas of amendment which was signed into law in 1994 include: the addition of stalking as one of the criminal acts which constitute an act of domestic violence; the inclusion of the dating relationship and minors as a covered category defined as eligible to request an order of protection; and the addition of training for the judiciary.

All of these areas were needed additions to the law. There has been legislation proposed to more clearly define the crime of stalking, and we support those initiatives. The Division on Women has concentrated time and effort on the development of printed material for distribution which informs teens of their rights and responsibilities in the dating relationship. These materials have been favorably received by both teens and adults. Of course, it is our intention to continue these efforts.

We had a table at our Take Our Daughter To Work Day activities, and I have to say that the materials on dating relationships were the most popular. You could see it was both the mothers picking them up and the teens themselves.

In regard to the issue of training of the judiciary, I believe that the judiciary should maintain an appropriate presence in the body of the developing case law with regard to domestic violence and that there is a need to be vigilant to maintain the progress that has been established in focusing the judicial eye on this issue.

The judicial system is struggling to adapt to additional pressures which increase competition for scarce resources. The Division on Women recognizes that while there is still a full plate already for the judiciary and related judicial system agencies, it is still important to give full recognition to the significance of this issue to society and to acknowledge its rightful priority in the spectrum of human experience.

Some of the often unrecognized victims of domestic violence are the children who witness acts of family violence. In the 1994 Uniform Crime Report, we find that children were involved or present during 49 percent of all domestic violence offenses occurring in 1994. Specifically 8 percent -- 5,771 -- were involved and 41 percent -- 29,140 -- were present during reported incidences of domestic violence.

One of the recommendations of the Advisory Council report, which has, I believe, a broad impact on the general issue of domestic violence and is specific to the issue at hand this day, is the effects of domestic violence on children. "Recognition by the legal system and other relevant disciplines must be given to the body of research that shows that children who are exposed to domestic violence can experience long-term development and emotional problems; that as the number and severity of domestic violence incidents increases, there is a substantial increase in the risk of physical and sexual abuse of children; and that the use of court litigation, especially regarding visitation, custody, and child support issues, is, many times, used to continue to coerce and control the victim of domestic violence for years after physical separation."

Sections of the law enacted to provide for risk assessment and supervised visitation in the event of domestic violence are implemented

without a detailed protocol for forensic evaluation or standard operating procedure. A risk assessment tool was developed and distributed through the procedures manual of 1994.

This valuable tool, or one that uses methodologies that have been validated where coercive techniques, violence, and lethality risk are involved, needs legislation which will further define its use by qualified personnel, along with the development of standard procedures or recognized best practices for supervised visitation.

The Prevention of Domestic Violence Act provides for the creation of Crisis Intervention Teams or the training of individual law enforcement officers in methods of dealing with domestic violence. Some cities and municipalities have developed domestic violence response teams in connection with local domestic violence programs. These brave few are commended for their foresight and dedication in developing a community response which has recognized domestic violence as not a problem of the individual, but one of society.

Municipalities which have not established community response teams or trained domestic violence officers should be encouraged to do so through interlocal service agreements with other local governments or counties or domestic violence service providers on a cooperative basis. This could include a fee for service. These programs should use appropriately trained personnel in recognition that domestic violence intervention is a specialized area of knowledge requiring specialized training and skills.

Finally, I am quite sure others -- and we've heard them -- have presented testimony concerning pro-prosecution policies. I leave most of the

discussion to experts in the field. However, I bring to you the salient issues of pro-prosecution policies from the viewpoint of my Division.

In matters of prosecution of underlying criminal acts which constitute acts of domestic violence, it is our opinion that a victim of domestic violence should never be put in the position of prosecuting a case pro se, that the level of investigation of the criminal act should rise in the expectation of prosecution, and that the safety of the victim should be paramount in the disposition of any defendant.

Finally, I would like to extend a very genuine and warm appreciation to Assemblywoman Heck for having the foresight to hold these hearings. The knowledge that we get today will serve not only your Committee, but it's going to serve a lot of people. I sincerely appreciate that you did this.

ASSEMBLYWOMAN HECK: Thank you very much, Linda.

One of the things we're finding out is that there isn't one formula. It seems to have a difference between the cities and the smaller counties. So I think that is important for us to acknowledge. The importance of crisis teams, the importance of the advocacy piece, and the fact that we need more resources and judges is something that I think we better all look at very seriously. Because with the number of the crimes involved -- or the cases involved -- we're talking about in just a few years seeing those cases double. We have to look at this very seriously.

MS. BOWKER: Carol and I decided, to save time before the Committee, that we would put all the testimony together.

ASSEMBLYWOMAN HECK: I appreciate that.

MS. BOWKER: Certainly, if you would like to ask her any questions, she is a treasury of information.

ASSEMBLYWOMAN HECK: Do you have any questions for Carol or Linda? (no response)

But you will be involved with our smaller group.

MS. BOWKER: Absolutely.

ASSEMBLYWOMAN HECK: Because you know how--

MS. BOWKER: We would be knocking on your door.

ASSEMBLYWOMAN HECK: Yes. (laughter)

Thank you very, very much.

MS. BOWKER: Thank you.

ASSEMBLYWOMAN HECK: I think we need the New Jersey Coalition for Battered Women. I hope that--

Oh, there you are, Barbara.

Barbara Price-- Is Susan Fleish here, too?

BARBARA PRICE: No.

ASSEMBLYWOMAN HECK: Oh, okay.

Is anyone here from the Coalition with you, Barbara?

MS. PRICE: No, just me.

ASSEMBLYWOMAN HECK: Oh, okay. Good. We need you, Barbara. You're more than enough.

MS. PRICE: I'd like to talk about a couple of other things today besides what we are talking about and address some of those issues, as well.

I think it's really clear from the intent of the legislation -- the domestic violence legislation -- what the Legislature intended with this law. It

says over and over again in the intent section that the intent is to provide the maximum protection from abuse; that officers -- law enforcement officers -- are to protect the victim; that the courts are to protect victims; that they are supposed to impose sanctions and make them available to assure the safety of victims. There is supposed to be a broad application of this law, and that we're supposed to project the attitude that violent behavior will not be excused or tolerated.

So I think the intent of the law is very clear. It is to protect the victim and provide safety. While the law addresses both civil and criminal remedies and directs the courts and law enforcement to respond in certain ways, is it the sole responsibility of law enforcement and the courts to protect victims and provide safety? No.

Domestic violence victims and advocates have emphasized, for years, that the best way to respond to domestic violence is through a coordinated community response. What does that mean exactly? It means that all agents and individuals who encounter victims and/or batterers need to be trained to recognize domestic violence, understand the dynamics of power and control that are involved beyond the physical violence, and work together to respond to the need of the victim to be safe.

This means that physicians need to learn how to ask the appropriate questions to assess for domestic violence and refer victims to local programs. All DYFS child protective service workers need to understand the connections between domestic violence and child abuse, assess for both, and refer.

Welfare workers need to understand how batterers discourage women from attending job training programs and harass them at work until they are forced to leave their jobs. Clergy need to assess for violence in premarital counseling and seek out and maintain contact with local service providers. Drug and alcohol counselors need to understand the connection between domestic violence and substance abuse and not blame the violence on the alcohol or the drugs.

Employers need to provide security for battered employees. Lawyers need to understand the manipulative behavior of batterers who continue to harass throughout the divorce process. The courts need to enforce batterers' compliance with reliefs provided in the restraining orders. Police need to collect evidence so that cases can proceed without the testimony of the victim if that is appropriate. Prosecutors need to prosecute these cases.

The Legislature needs to adequately fund services for victims and their children, and individuals need to call the police when they see or hear domestic violence. Can the Legislature pass laws to cover all of this? No. Can the Legislature have some effect? Yes, they certainly can.

But until domestic violence becomes a priority for all the agents, organizations, and individuals I have mentioned and there is a sincere commitment to carry out not only the letter of the law as it currently exists and the legislative intent, we will not end domestic violence.

What would such a priority or commitment mean? It would mean reviewing new policies and procedures from the victim's point of view. How will this policy further protect the victim? Might it in any way jeopardize her safety? Will this policy create problems for the victim with other systems from

which she needs help or assistance? Have victims or their advocates been included in the policy making process or, at least, allowed to review the policy for how it might affect victims? Has the impact of this policy on other systems been discussed with those systems to ensure victim's safety? How would this work in reality?

I would just like to digress from the criminal aspect of this to tell you about something that is currently occurring. This means looking beyond the Prevention of Domestic Violence Act to all areas that encounter the victim. For instance, in the Governor's welfare reform proposal -- Work First New Jersey -- one of the basic requirements of eligibility to apply for welfare, will be to first apply for all other entitlements such as SSI and unemployment.

Unfortunately, battered women who are forced to leave their job because their batterer continues to harass them at work and threatens them cannot get unemployment. The Coalition has had to advocate for several women with unemployment to secure benefits. Now, thanks to Assemblywoman Allen and Senators Lipman and Cafiero, legislation has been introduced to correct that situation.

Unfortunately, the Department of Labor, that is supposed to support the Governor's Work First proposal by providing access to employment and training through its One Stop Career Centers, opposes this legislation. They say battered women can collect disability. Battered women are not disabled, they are frightened.

Legislators are concerned that thousands of women will leave their jobs and claim to be battered to go on unemployment and that that would cause a great deal of problems with the unemployment funding, when we know

from other states' experience that the possible number in New Jersey could be about 100.

The Taylor Institute has published a second report of its Women, Welfare, and Abuse Project. The first report documented the problems of abused women in participating in employment and training programs to get off of welfare. The second report cites statistics from the Passaic County Board of Social Services' Life Skills Program right here in New Jersey.

From a sample of 105 participants in December 1995, 58 percent have been a victim of physical domestic abuse. Twenty-one percent are currently a victim of physical domestic abuse. Thirty-six percent are currently a victim of verbal or emotional abuse, and forty-nine percent state that boyfriends do not encourage education or training efforts. Sixteen percent state that boyfriends prevent them from obtaining education or training, and twenty-four percent state that boyfriends attempt to control their lives.

How will the One Stop Career Centers deal with these issues? Will employees be trained about domestic violence, and when the Department of Labor is opposing legislation that is going to assist with the requirements in Work First, where is the coordination? When one department is saying that they're going to have the support of another department and they're not supporting them--

Another area that we're concerned about as well is divorce reform. While pending legislation mandating mediation in divorce exempts cases where domestic violence is involved, many legislators, with the support of mediators, do not see why domestic violence cases should be excluded even though

mediation is prohibited in domestic violence cases by the Prevention of Domestic Violence Act.

The basic principles of mediation are that it is done with parties who are equal. Victims and batterers are not equal. We do not ask any other victim of a crime to sit down with their abuser and mediate the crime.

Another area where coordination is essential is criminal prosecution and municipal court prosecution. The Coalition is encouraged by the increased attention recently devoted to criminal prosecution of domestic violence. We believe that a piece of a comprehensive approach to domestic violence includes the imposition of serious sanction for domestic violence offenses. However, we also caution that this is an area that must be approached with great care and deliberation. Proceeding without using victims' safety as the overriding goal of criminal prosecution and as the major guiding principle can result in disastrous consequences for victims.

The Coalition is particularly concerned about the interest in municipal court prosecution, because none of the elements required for safety guided prosecution exist at this level. These elements include direct and sensitive communication between the prosecutor and the victim prior to the hearing; ongoing supportive services to the victim prior to, during, and after the hearing; mechanisms to ensure victims' safety and keep the victim fully informed of the status of the case; postconviction supervision of the batterer; and enforcement of any sentence imposed as a result of prosecution.

Insufficient training, guidelines, and resources to municipal court prosecutors, coupled with a mandate to more often prosecute and less often dismiss cases, will increase danger to battered women.

Because of this, the Coalition is very disappointed that the Gloucester County Prosecutor's Office is no longer permitted to transfer municipal court domestic violence offenses to the Superior Court.

I would add that with prosecution at the municipal court level, most of our programs are lucky to have an advocate who can be in the court to assist victims one day a week -- maybe every day, if they're lucky. We can't possibly provide advocates in all of the municipal courts. It's just not going to happen. We don't have the wherewithal. We don't have the financial ability to support that.

All of the remedies in the Domestic Violence Act have been in response to problems victims have encountered with the justice system. Have these changes helped? Absolutely. Have all judges, court personnel, prosecutors, and police been trained and fully understand the dynamics of domestic violence? Probably not. But then little if no training is available for people involved in all of the other systems I have mentioned. There is also no money appropriated for training.

Will training everyone solve the problem of domestic violence? No, but it will certainly help. What is needed, however, is a commitment to a coordinated community response to end domestic violence in New Jersey. Whose responsibility is that? It is your responsibility. It is my responsibility. It is the responsibility of everyone in this room. We all need to stand together and say that domestic violence is not acceptable.

Thank you.

ASSEMBLYWOMAN HECK: Thank you, Barbara.

One of the things we will be looking at is the information we have received today about the municipal court versus Superior Court versus Family Court. Perhaps we can come up with some kind of a plan to make it move ahead.

What we look for, I think all of us, is safety of the victim. But we're also looking for these matters to be expedited, because the amount of time between the court getting involved and the victim waiting to appear at the actual case is so long that I think that is detrimental to the victim.

I think we have to work with the AG's Office, the Administrative Office of the Courts, and the prosecutors because everyone is making a good point. But we have to come up with a formula that will address all of the situations. Certainly, the interaction and communication among all the departments involved -- including Labor, now that you're bringing that to my attention -- has to be done. It is just getting mind boggling how this has grown.

MS. PRICE: Again, I think it is important, though, to make sure that victims' voices are heard in this issue--

ASSEMBLYWOMAN HECK: Oh, absolutely.

MS. PRICE: --and that victim advocates are included in that municipal court project, and we are not at this point.

ASSEMBLYWOMAN HECK: I think that the advocates are a major piece of the solution that has not been involved. So certainly when we get this group together, we will make sure that your voice is there at the very beginning rather than after the fact.

Are there any questions for Ms. Price?

Assemblyman.

ASSEMBLYMAN JONES: Thank you, Madam Chair.

Just one quick observation and question.

First, Barbara, I think that was a very precise testimony filled with information that, certainly, I wasn't aware of. You mentioned, with respect to an individual in the State of New Jersey who finds themselves a victim of domestic violence and having to sever themselves from their employment would not be eligible for unemployment insurance benefits. What other states in the nation now allow for unemployment benefits for individuals who have to sever their employment because of a domestic violence problem?

MS. PRICE: I think one of the states that we have talked to recently is Maine, and there are several others. I'm not sure, totally, which ones they are. But we did some research on it, and when my Assistant Director testified on the bill last week, she had that information. I can get that to you.

ASSEMBLYMAN JONES: I would appreciate that.

Thank you, Madam Chairwoman.

ASSEMBLYWOMAN HECK: Thank you very much.

Do you have an extra copy of that, Barbara? If not--

MS. PRICE: I'm going to send it to you.

ASSEMBLYWOMAN HECK: Good. Thank you very much. I appreciate that.

We have Martha Peters. Is she here? (no response) She said she was coming. Bear Atwood is here, and then, Marty.

B E A R A T W O O D: Good morning. My name is Bear Atwood. I'm the President of the National Organization for Women of New Jersey.

I don't want to repeat what other people have said, but I want to highlight a couple of things that have been said that I think are very important. I had intended to speak about many of the issues that Barbara Price just spoke about, bringing to this group's attention the fact that domestic violence doesn't stop at the end of the domestic violence laws, but that it permeates our society throughout all of our legislation and throughout all of the places where women and children are involved in their lives.

It really is important to remember and to look at how this issue interacts with our welfare laws, with our divorce laws, with our insurance laws, and that it is a widespread issue that goes well beyond the Domestic Violence Prevention Act.

I also wanted to talk about funding. You know, every solution that we've heard today has been prefaced with "I know we have scarce resources. I know we don't really have the money to do this." But we're spending that money right now. We're spending it in hidden costs in our education systems. We're spending it by having to deal with the serious social problems that children bring to school because of violence in their homes.

In our workplace we're dealing with it. New Jersey is a business-friendly State. Well, the businesses in our State are losing unbelievable amounts of money due to lost work hours, due to people having to leave jobs because of domestic violence.

We're spending it in our health care. We have a health care crisis in this country. We could go a long way to solving our health care crisis if we could go a long way towards solving domestic violence problems, because that

is where women spend most of their health care dollars -- is as a result of domestic violence.

So when we talk about the scarce resources, I think we have to talk about allocating our resources more appropriately. We have to stop-- We have to recognize we're already spending that money and stop money -- spend a little money now to stop spending huge amounts of money in the future in all of those places.

So when we talk about a central registry costing \$2 million that sounds like a lot of money, but we're spending that money now. I think if we can find ways that will truly help with prevention, then we can stop spending that money in other ways that aren't a line item on a budget, but our society is certainly spending it -- our taxpayers are certainly spending it.

So I am a strong advocate for the central registry.

I also was involved with the case you started out by talking about, Assemblywoman.

When I received a call from Hudson County from a woman who described to me being brutally beaten with a baseball bat and then cut in the throat with a box cutter; and she told me how she had been treated by the system, the lack of respect she had received in the system, the lack of consultation or even of information about the case; the fact that the prosecutor's office had not even asked for her medical records from the hospital, and her batterer, who had truly tried to kill her, was going to receive a sentence that was very light and to a very diminished charge -- I was horrified.

I called the prosecutor's office and their response was, "Well, it's his first offense." I have to agree with you. A first offense with a box cutter -- with a box cutter to the knife (*sic*) is a box cutter to the knife and I don't care what offense it is. We need a central registry so we know if there is a pattern of abuse in civil matters, not just in criminal matters.

ASSEMBLYWOMAN HECK: Absolutely.

MS. ATWOOD: We need to stop saying, "Well, it's just a first offense." We need to take prosecuting these cases very seriously. The prosecution in a criminal case has a high burden of proof. They need to prove beyond a reasonable doubt.

Even if they have a willing victim, even if they have a woman who is dedicated to coming in and testifying, they need to get in there and corroborate her testimony wherever they can. They need to have a pro-prosecution stance not just if they are concerned whether the victim is there, but to support that victim so the defense lawyers -- and by the way, I used to be one so I know exactly what they're going to say -- don't say, "Well, it's her word against his." They need to, whenever possible, do the investigation to assure that victims aren't revictimized by the court system and the court process by having their credibility attacked inappropriately.

So I wanted to highlight those issues and to thank you for having this meeting. I've listened all morning, and I feel like I've gotten an incredible education and looked at some of these issues in a new light.

Thank you.

ASSEMBLYWOMAN HECK: There is always something new to learn, and the communication is very important.

MS. ATWOOD: Very true, very true.

ASSEMBLYWOMAN HECK: Thank you very much.

Are there any questions for Ms. Atwood?

ASSEMBLYMAN O'TOOLE: No.

Thank you very much for your testimony.

ASSEMBLYWOMAN HECK: Thank you, Bear.

Marty Rodetsky, from P-A-C-T.

UNIDENTIFIED SPEAKER FROM AUDIENCE: Number one
opposition.

ASSEMBLYWOMAN HECK: I'm sorry, who is saying that?

UNIDENTIFIED SPEAKER FROM AUDIENCE: I am.

ASSEMBLYWOMAN HECK: Well, please do not speak out from
the audience. We've had a very civil meeting today and I don't want it to--

UNIDENTIFIED SPEAKER FROM AUDIENCE: I've been here
all morning listening to you.

ASSEMBLYWOMAN HECK: Marty.

That is close enough so you can hear that, Harry? (affirmative
response)

MARTIN RODETSKY: Can you hear me?

ASSEMBLYWOMAN HECK: Yes. Thank you.

UNIDENTIFIED SPEAKER FROM AUDIENCE: Is it on the
record? (no response)

MR. RODETSKY: My name is Martin Rodetsky. I have been
asked to come by PACT, People Against Corruption and Tyranny.

I wanted to make an observation before I start that we've been here for several hours, and this is the first time there have been opposition position at all being mentioned.

I have no problem with the basic issue where criminal acts are committed, they should be stopped, and those who commit those acts must be prosecuted. I have a tremendous problem with the positions being taken here and how these positions are used for the wrong purposes, for the wrong reasons, and these are the things I would like to address here today.

This presentation is not the same as the others. You've heard me say before, I'm not here today as a supplicant, a petitioner, a protagonist, or a beggar. I am here to point out to the New Jersey people how they are being defrauded by government run amok in violation of oaths taken to uphold and defend the Constitutions and laws for New Jersey and for the United States of America.

When is it going to stop? When are you, in government, public servants in positions of public trust going to remember who you work for? When are you going to remember that failing your oath of office is failing the people who depend upon you for their very lives, their liberties, and their protections?

No one tries to justify spousal abuse, child abuse, parental abandonment, failure to support your children any more than we could try to justify murder, rape, robbery, or kidnapping. The difference is just where does government get its powers to interfere with the private lives of the people in this State and their right to be left alone.

When I was growing up there used to be a cartoon entitled *There Ought To Be A Law*. Well, government must have been listening, because recent history is just chock full of government making laws -- laws without regard for whether they are good law, bad law, whether these laws are intended to protect and help people or to harm and endanger them.

As usual, the question becomes, Who is to judge the validity and the justification of law? In this country, the answer to that is very simple. The people make the justification by their votes and by their preferences. The only place where people cannot make that kind of decision is where the will of the majority intends to violate the rights of the few. That is where good government becomes perverted and prostituted and becomes bad government.

What we have today in New Jersey is bad government. It is easily seen in the executive, the legislative, and the judicial branches of government. One of the very easiest places to see this manifestation of bad government is the fact that lawyers -- members of the judiciary -- have invaded -- no, infested -- the executive and legislative branches.

Bill Gormley, the Chairman of the Senate Judiciary Committee, is a lawyer and so are five other members. Six out of nine members of the Senate Judiciary Committee are members of the judiciary, owe their loyalty and allegiance to the courts, and sell out the people to benefit the bar. Gormley and his cronies not only help to make bad law, they ensure their own wallets by appointing creeps to the black-dressed brigade who intend to rape the New Jersey people to benefit their own bar.

Where do many of these bad laws get introduced? In the family arena, the very foundation of America, the bastion of liberty, and the promise of tomorrow.

Think about the current history of family violence as a reflection of the domestic violence laws. We haven't stopped the violence by increasing the law. All we've done is to increase the incomes of more and more lawyers while bankrupting the families least able to take the strain because they're already under stress from internal pressures.

Bad law is easy to identify. Any law which hurts people -- the good, the bad, or the ugly -- is bad law. Any law which protects rights under constitution is, at the start, intended to be good. The problem is that no such laws are being introduced, let alone enacted. Instead, what we have inherited is a crazy quilt of unintelligible code which is intended to only be understood by the lawyers and keep their high priests -- the judges.

We keep forgetting that the very essence of a crime is provable intent. How can criminals be convicted of crimes when it is virtually impossible to understand most of the laws being enacted?

Take again the domestic violence law: What is it? Is it civil or is it criminal? I've heard both today. If it is criminal, why is it provable by preponderance of the evidence as a standard? If it is civil, why is it punishable at all, let alone by incarceration? Why do we need it when we have perfectly workable criminal laws to stop, prosecute, convict, and sentence criminals all within the true meaning of constitution? Why have we enacted shortcuts, whose only apparent manifestation is to screw both the victim and the wrongdoer?

We have already seen episodes with judges like Zampino, who just came up for tenure last month. Not only did Bill Gormley then order me ejected from the meeting before I could testify, he denied several other people who had been harmed by Zampino from testifying, and he failed to introduce letter affidavits from people who could not come to the hearing -- in one case because of physical illness. Needless to say, Zampino was confirmed for tenure, but that isn't the end of the story by a longshot.

Gormley was asked for a list of judges who were denied tenure, and Gormley confessed that there were none who were denied. After all, judges are perfect, just ask them. Let them make a decision about their own performance and just what do you think they will decide? That they are perfectly sleezeballs who have been less true in worth and honor than the litigants unfortunate enough to come before them. Just what is the benefit of a Senate Judiciary Committee run by lawyers who appoint judges and write laws to benefit the partners in their own law firms? It gives new meaning to the word incest.

I would like to give you an example of the kinds of words of art that lawyers and government use to betray litigants and make them believe it should construed an honor to be screwed by a lawyer. All judges talk about their actions being under color of law, and they make all cases colorable under some precedent.

Let's see how the lawyer's dictionary defines these words: Colorable, "That which is in appearance only and not in reality. What it purports to be, hence, counterfeit, feigned, having the appearance of truth."

Color of office -- acts done by color of office are where they are of such nature that office gives no authority to do them, like the New Jersey Legislature -- "Pretence of official right to do act made by one who has no such right. An act under the color of office is an act of an officer who claims authority to do the act by reason of his office when the office does not confer on him any such authority. The appearance or semblance without the substance of legal right; misuse of power possessed by virtue of State law and made possible only because wrongdoer is clothed with authority of State is action taken under color of State law."

What boggles the mind is that judges regularly spout these words with a straight face. Now that you know what they are saying, why would you ever sit there and permit them to advertise their greed, their corruption, their venality, their depravity?

What are you and this Committee going to do today? Are you intending to write more laws to benefit lawyers? Are you really interested in how many families are murdered while you play with your jurisprudence? Just what is your color of office when you operate under color of law to make colorable decisions affecting the very lives of your constituents?

In short, how do we make you personally and privately liable for the end results of your bias, prejudice, venality, bigotry, and intolerance? We, at PACT, see your actions as corrupt, avaricious, and unscrupulous.

I've been talking to Rose Heck for almost two years now. I've been asking her about battered men's shelters, a council on men's issues, pro bono counsel for men accused of fraudulent crimes, like domestic violence,

child support arrearages, stalking, and other bias crimes. Do you know that 2a:17-77 states that women cannot be arrested for these acts?

What about people like Lorena Bobbitt and Susan Smith? What about their prosecutions? How are those being handled. What does that have to do with men's issues or men as the evil people?

Unfortunately, some people that I've talked to get the wrong idea. I don't want women persecuted for unlawful enforcement of laws. I don't want men persecuted either. With regard to all the issues previously determined by this Committee and all new actions being contemplated, make these acts criminal and prosecute the accused criminally.

If he or she is guilty, let there be criminal penalties imposed after the full panoply of due process rights afforded the accused murderer, rapist, thief similarly situated. By the same token, if the accusations turn out to be false, let the false witness be punished according to the jeopardy the true victim would have been exposed to if found guilty.

In the alternative, let the accuser, the lawyer, and the legislators who passed these biased and prejudiced laws be held personally and privately liable for the damage they do with the holier-than-thou hypocrisy that can only be equated with politicians who haul themselves above their constituents.

From our point of view, we are piercing the frauds faster than you can create new ones. We are discovering just how venal and corrupt the entire State -- no, the entire national government -- really is. We're finding how to hold lawyers, judges, even Senators and Assemblypeople, liable for their acts. In the alternative, you can resign now before you do any more damage.

PACT believes in the win/win situation. You win because you will not be prosecuted for what you did wrong after you leave office. We win because you don't do anything more wrong. Think about it.

To summarize, prosecution must prove criminal behavior by a beyond-a-reasonable-doubt standard. We get no funding, and we must protect ourselves against government run amok.

ASSEMBLYWOMAN HECK: Are there any questions for Mr. Rodetsky? (no response) None? (no response)

Thank you very much.

MR. RODETSKY: I have a couple of questions with regard to the issues.

ASSEMBLYWOMAN HECK: We are not here to answer questions. We are here to get testimony.

Thank you very much. We appreciate it.

MR. RODETSKY: Okay. Well, then I will send you these questions by mail and ask you to respond to them.

Thank you.

ASSEMBLYWOMAN HECK: You're welcome.

Are there any other people who would like to make comment before I close this meeting? (no response)

I'm very pleased that we had so many eloquent speakers here today. They brought a lot of matters to our attention that we will address, and we will make certain that you hear about that. I think we're going to have a lot of positive action coming from this meeting. We will be having a

subcommittee meeting and put some good things together, we hope, in conjunction with all the departments and the advocates who met here today.

Thank you very, very much for being here, and thank you for forgoing your lunch.

(MEETING CONCLUDED)