

**Hearing Before New York Senate & Assembly Standing Committees on the Judiciary  
Testimony Regarding New York Court Consolidation**

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## **Organizational Background**

Thank you to the Honorable Senate & Assembly Standing Committees on the Judiciary for allowing our organization to speak on this incredibly important and overdue issue of court simplification. My name is Atossa Movahedi, I am the Director of Legal Services & Development at the Urban Justice Center's Domestic Violence Project. At my organization, we hold steadfast that being free of domestic violence is a basic human right, and as such our project serves all survivors of intimate partner abuse. Our mission at the Domestic Violence Project at the Urban Justice Center ("DVP") is to provide survivors of intimate partner violence and their children with support and advocacy necessary to achieve freedom from the abuse and violence in their lives. We assist all survivors of intimate partner violence irrespective of their gender identity, sexual orientation, immigration, race, class, disability, age or other status. This undertaking demands a holistic approach in addressing the multitude of obstacles faced by our clients. Our team of attorneys, advocates and counselors work collaboratively by fully assessing each individual's legal, social service and clinical needs.

DVP is one of twelve social justice projects of the Urban Justice Center (UJC). Founded in 1981, the UJC is a social justice advocacy organization that provides a platform for dynamic advocates to fuel social change, leading the way for a just, fair and decent society. Since our beginnings, the UJC has represented an extraordinary array of the most deprived and abused people in our society, including members of the working poor, and issues related to discrimination and oppression. We often defend the rights of people who are overlooked or turned away by other organizations.

Our current provision of civil legal services includes free legal assistance on family and immigration law matters. Our family law attorneys provide direct representation and advocacy in all five boroughs of New York City, appearing daily in family and integrated domestic violence courts litigating hundreds of matters. Our practice includes assistance with obtaining orders of protection, seeking custody or visitation of children, obtaining child/spousal support and uncontested divorces. Additionally, we find ourselves assisting clients obtain name-changes, appear in small claims court and other miscellaneous legal proceedings depending on their needs. To demonstrate our reach, in fiscal year 2019, DVP provided over 1,200 new individuals with domestic violence screening and legal information. Our organization assisted 3,000 legal and advocacy matters ranging from all five boroughs of New York City. These numbers are a testament to the hard work of our team and the increasingly high demand for services.

## **How Court Simplification Impacts Survivors**

The New York state courts are often the only means of accessing justice for working poor and indigent families. By the time you find yourself in one of these courts, you are already desperate for help. You are most often already marginalized, discriminated against and impoverished. Our communities deserve a user-friendly and truly accessible justice system. We have a

responsibility to provide real access to justice, not just perceived access. The current system as it stands today creates insurmountable obstacles for our clients, our practice and our organizations.

At DVP we assist the most underserved and marginalized sub-populations of domestic violence survivors; those who are working poor, who have disabilities or mental health issues, the D/deaf or hard of hearing, blind, immigrants, LGBTQ and male identifying survivors. Like many organizations, our cases present an added layer of complexity that necessitates intensive advocacy and coordination with ADA liaisons, law enforcement, Assistant District Attorneys, interpreters and advocates. Often, our first and greatest challenge is getting survivors to consider accessing the courts.

As the Director of the Legal Program, I have heard countless stories of lost earnings, child-care issues, difficulty accessing court due to disability or trauma, frustration with delays and confusion about process, rendering this issue of court simplification all too commonplace to adequately articulate to you all. The inefficiencies of the system have become entrenched in the culture of our practice. It is a burden that both practitioners and litigants have assumed. We begrudgingly accept that pro bono and private attorneys, litigants and Judges will waste entire work-days dealing with administrative hurdles. For lawyers, it is wasted time that impedes our ability to take on more cases or dedicate more time to existing clients. For litigants, it is the difference between losing custody of their child or losing their job; losing housing or continuing to live in danger. Countless clients have abandoned litigation or consented to unfair or poorly executed agreements for lack of any other tangible choice. We owe them a better forum for pursuing justice.

Domestic violence survivors often have numerous cases simultaneously heard in Supreme Court, Criminal Court, Family Court, Housing Court and more. They are fighting for basic life needs, often all at once. Nonprofit organizations and attorneys have been responsive to what we observe on the ground, re-organizing our agency's structure, practice and funding priorities. We can only hope that the justice system that we serve can be similarly reflective and adaptive to the needs of our community.

While we hoped to bring you a survivor to tell you their story of the difficulties accessing NY courts, given the sensitive nature of our cases it was not possible today. In turn, we bring to you the next best thing: their voice and their advocate. I am proud to introduce to you Marjorie Cohen, our Senior Staff Attorney who has been litigating in family court in New York for the past ten years. Marjorie has experience as a former Administration for Children's Services Family Court attorney and now domestic violence family law attorney, and has had thousands of clients, litigated hundreds of cases in all five boroughs of New York City.

### **The Need for Court Simplification: Efficiency, Uniformity and Access**

Thank you to the legislature for your time and your commitment to this issue. At DVP, our clients are survivors in every sense of the word; they have suffered or are currently suffering from significant trauma. While simultaneously navigating a multitude of courthouses with varying court rules, our clients are making personal sacrifices that impact their employment, health and families. I'm here to tell you today that the current system is simply unworkable for survivors of domestic violence who are juggling all of these life needs. But it's also untenable for anyone because regardless of our status in life, if you are litigating your family's needs while balancing your family's needs, you will ultimately feel like you are drowning. You are literally just trying to survive.

### **Efficiency**

Court consolidation would allow for a better informed judiciary by having one judge preside over all related matters and easily access material information. Consolidating the court system would allow the judge to have the fullest and most accurate record and as a result, litigants would benefit from a more equitable process. Judges will have access to testimonial inconsistencies or relevant evidence, rather than being forced to rely on transcripts from separate proceedings.

Because of the current structure of the courts, it is very common for our clients to have simultaneous and related proceedings before different judges, for example custody/visitation proceedings and child support cases, which are held before a different arbiter, often on a different day and in a different location. In the child support context, we often hear the non-custodial parent complain that they are unable to make support payments, but then in the custody matter brag about their finances to support their claim that they are more fit. This necessitates the client to obtain transcripts from both proceedings to show the Judge contrary evidence. Obtaining transcripts takes time and money, not to mention knowledge of the process, which varies from courthouse to courthouse. Unifying the court system would save time, resources and provide a sense of transparency allowing litigants, monied or otherwise, to have the same opportunities before the judiciary.

### **Uniformity**

Currently, cases in New York City may be transferred from Family Court to the Integrated Domestic Violence Court (IDV) without much or any notice to the litigant or attorneys. In that process, the filing number for the case will change. Without the correct file number, attorneys have difficulty obtaining information about the case or may not be able to find it on the court calendar. This transfer process is even more confusing and mysterious for pro se litigants. They often appear on the previously set Family Court dates, only to be told the matter has been transferred, resulting in a day of missed work for no reason. Other examples of inconsistencies after a case has been transferred to IDV involve where to file, how to file and filing fees.

In general, the filing process varies from borough to borough on all types of Family Law matters. For example, the process for filing for divorce varies from borough to borough. Specifically, in Staten Island, when filing for divorce, a litigant or attorney must go to various

buildings to file various applications for the same underlying divorce case. The rules on what to file and where also seem to change often and without formal notice. Where there is a lack of uniformity across the boroughs, simplifying the courts would help implement clear, uniform rules and procedures and allow clients to have a greater understanding of the court process. In turn, they would spend less time and money figuring out the logistics and have more time to access and understand substantive information in preparation for their case.

## **Access**

Litigants must be able to fully understand and participate in proceedings. In order to have true access to justice, diverse populations in New York City require interpretation resources and courthouse child-care. Consolidation of the courts would allow for the consolidation of these resources which are unevenly distributed. Interpreters are essential participants in litigation, but can be difficult to coordinate, especially for languages that are less common. Litigants experience long wait times for their cases to be called, causing huge delays in litigation and impacting clients' due process rights, simply because the interpreter may be in another courthouse. Simplifying the system will allow for better coordination of and increase access to interpreters.

An example is a DVP client who is Deaf and requires an American Sign Language (ASL) interpreter to communicate. Since the ASL interpreter is not available daily in the client's particular borough, the client is only able to appear on certain days of the week that correspond with the ASL interpreter's availability and the court calendar. Even when interpreters are ordered by the court to appear, very frequently they do not appear or appear with great delays, causing litigants' cases to be administratively adjourned. Such needless delays have significant safety risks to our clients. Delays in court can be lost opportunities to make emergency applications regarding the safety of the client or their children. It may be several months until they have another opportunity to be heard. These delays are also a financial burden to clients paying for private counsel, incurring expensive attorney's fees that produced no result. Simplifying the court system will enable these limited resources to be more readily available-decreasing the time interpreters spend traveling between courthouses and better coordinating their appearances.

A DVP assisted a client who suffered from a debilitating stroke paralyzing her from the waist down and severely limiting her verbal skills, all while she fought to keep custody of her children and obtain protection from her horrific abusive ex-partner. Appearing for court required a tremendous amount of preparation: figuring out how and when to meet with her attorney, coordinating with Access-A-Ride to get to court on time, coordinating with the ADA court liaison to ensure reasonable accommodations were made for her and ensuring that a "Real-Time" interpreter would be available. Additionally, given the client's disability, a family member was needed to accompany her to court each time. Consider all the effort that goes into just getting the client to appear. Imagine the devastation when she arrives to find that the interpreter is not available.

Throughout the 6 years that this case pended, the court was unable to coordinate translation for 90% of her court appearances. The client was effectively unable to meaningfully participate in her case. The client lost her ability to communicate her story, the court took away her voice, that's the impact of these delays, and the system that was supposed to help her, essentially disempowered her. This lack of access to interpretation was arguably a violation of the Americans with Disabilities Act, however the client had no more time or strength to entertain yet another lawsuit.

The many court appearances and adjournments referenced above also delayed the client from fully moving past the abuse she endured as she was forced to encounter her abuser for 6 years. Safety is another aspect of the court process that is often undervalued. Safety for domestic violence survivors is affected by the court system, logistics and delays. The more appearances in court, the more an abusive ex-partner has access to the person they victimized, access to their physical presence and access to information. The more times clients have to go to court, the more opportunities the abusive party has to gain information to use against the client. The more locations the client has to travel between, the more opportunities for the abusive ex to monitor the client's routes, to follow them, and to learn their routines. Continued exposure continues to place the client in danger. By simplifying the court and ultimately decreasing unnecessary multiple court dates, the abusive party has fewer chances to use the court system as another means of abuse.

Another issue for our clients is the lack of courthouse child-care. I litigate in a borough where certain court parts lack access to the child-care center altogether. A client of mine who has two children, one of whom has special needs, had a case in Supreme Court over the summer when school was not in session. While we were able to advocate for her to leave her son at the child care center in court down the block, this was an exceptional situation and not ideal.

Custodial parents responsible for coordinating their children's school pickup are also hindered by court delays in general. Whatever the reason, cases that are scheduled for the morning too-often get pushed into the afternoon when clients have to get their children from school. Those parents who cannot stay for the afternoon to have their case called are deprived of their right to meaningfully participate in their own court proceedings due to flaws inherent in the current court system.

While simplifying the court system will not cure every problem, it is a step forward in paving the way toward a more accessible and just process, alleviating undue stress and burdens from our fellow community members. By consolidating the current system to Supreme, Municipal and Justice Courts, clients will be better able to maneuver their way through the maze of courts and tap into more centralized and readily available resources. By taking steps to ease logistics, lessen delays, and provide more uniformity, clients can focus on the issues at hand rather than just trying to keep their heads above water.

Thank you for your time and consideration.