

STATEMENT OF
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BEFORE THE COMMITTEES ON PUBLIC SAFETY AND WOMEN'S ISSUES

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Good afternoon Chairman Vallone, Chairwoman Ferreras, and members of the Committees on Public Safety and Women's Issues. I am District Attorney Cyrus R. Vance, Jr. Thank you for this opportunity to discuss our efforts to end the vicious cycle of domestic violence.

It is no exaggeration to say that over the past several months, newspapers have reported nearly non-stop domestic violence headlines. Virtually every week the public is saddened and horrified by the news of another domestic violence related murder.

The NYPD received 249,440 domestic violence complaints last year: Every single one of them was a potential homicide. Since I took office in January 2010, there have been 13 domestic violence homicides in Manhattan. In just the past few months, numerous horrific homicides have been committed statewide arising out of or related to domestic violence. In my jurisdiction, Michael Kenny was indicted for allegedly stabbing Denise Kenny to death in a midtown hair salon. Reynaldo Lebron was indicted for shooting Massielle Abreu to death in front of their three children in Harlem. In the past three months, in other counties, two police officers have lost their lives while responding to domestic violence incidents.

But this is only a handful of high profile cases. Headlines simply cannot accommodate the stories behind the 5,466 domestic violence cases that worked their way through Manhattan criminal courts in 2010; the upwards of 700 domestic violence incidents reported to NYPD every single day, and the 67,761 domestic violence related home visits NYPD made in 2010.

This domestic violence pandemic spreads far beyond the borders of New York City. The Uniform Crime Reporting program outside of New York City found that in 2009, 26,251 assaults – that is 25% of all assaults – were committed by intimate partners statewide. That same year, New York State courts issued 262,327 orders of protection. These statistics highlight the statewide scope of this problem. Yet, these staggering numbers merely represent the incidents that have been reported to authorities. Domestic violence offenses are consistently some of the most underreported crimes.

According to a National Violence Against Women Survey, only one-quarter of all physical assaults, one-fifth of all rapes and one-half of all stalking incidents committed against women by intimate partners were reported to the police. As these offenders evade prosecution, and the attendant criminal repercussion of their actions, evidence shows that they often escalate their behavior. In fact, 66% of domestic violence victims who have been killed had prior incidents of abuse that were never reported to the police.¹

¹ New York City Mayor's Office to Combat Domestic Violence, available at <http://www.nyc.gov/html/ocdv/html/publications/publications.shtml#brochures>

The criminal justice system can and, I believe, has a duty to alter these numbers and sad outcomes. But first, we have a responsibility to show that domestic violence reports will be dealt with seriously; to prevent the escalation of this violence; and to help victims escape the violence and return to a place of safety.

Ironically, a major obstacle to better protect women and children are laws that tie the hands of prosecutors seeking stronger sentences for repeat domestic violence offenders. Under current New York law, unless there is serious physical injury or physical injury caused by a weapon, most domestic violence crimes qualify merely as misdemeanors.

With only this misdemeanor charge at their disposal, prosecutors across the state see domestic violence abusers repeatedly cycle through the system, serving little or no jail time. Put differently there is little disincentive for them to do it again because the penalties are so low, even for repeat offenders. But, the opposite is true for the victim. The impact on the victims of repeated violence is severe and unconscionable. According to the Mayor's Office to Combat Domestic Violence, nearly 40% of battered women are victimized again within 6 months. From 2005 to 2010, in New York County alone, 679 individuals were convicted of two or more domestic violence offenses.

As an example, one particular defendant in Manhattan has more than 100 prior criminal convictions - yes, more than 100 - that include assaults against various girlfriends, year after year. Yet, this offender could punch his girlfriend in the face on 100 more occasions and still only be charged with a misdemeanor. This is abhorrent and unacceptable.

When a victim is repeatedly abused, but the consequences to the offender are the same every time, it sends a conflicting message about the importance of the victim and the gravity of the crime. Domestic violence is a matter of life and death – literally; evidence has shown time and time again that domestic violence can and does turn deadly.

That is why I worked closely with Senators Martin Golden, Daniel Squadron, Charles Fuschillo, and Timothy Kennedy, and Assemblywoman Linda Rosenthal and Speaker Silver to draft S1510-A / A1986-A, legislation that would create an E felony for repeatedly engaging in domestic violence. Since its introduction it has gained momentum and I am proud to report that more than 40 legislators, from both sides of the aisle, have signed on as co-sponsors. It is truly a bipartisan effort, and the reasons for this are clear. This bill is simple and straightforward. It enumerates “qualifying” domestic violence offenses, such as Aggravated Harassment and Strangulation, based upon the most common domestic violence convictions that my office saw last year. If an offender is convicted of two or more qualifying offenses against a member of the same family or household within the immediately preceding five years, the offender can be charged with an E felony.

This felony charge for repeat offenders will do several things to break the cycle of abuse. First, it sends a message to abusers and victims that the criminal justice system does not tolerate recurring acts of domestic violence. Second, families would be better protected from continued violence, because a felony order of protection lasts almost twice as long as one from a misdemeanor case.

Under this felony charge, perpetrators of domestic violence would at a minimum be eligible for probation supervision for five years. In more serious cases, judges could incarcerate batterers in state prison. Finally, when incarceration is necessary and appropriate, these felony offenders would have

much better access to re-entry and rehabilitative programs. Judges would also have the discretion to require offenders to participate in proven treatment programs.

In other words, creating an E felony for Aggravated Domestic Violence isn't simply about jail time; it is a concerted effort to break the cycle of domestic violence while providing families with the safety that they deserve.

Organizations throughout New York State have recognized and praised the value of this legislation. The Downstate Coalition for Crime Victims, The New York State Coalition Against Domestic Violence, Vera House (of Onondaga County), The New York State Law Enforcement Council, The Violence Intervention Program, and Safe Horizon, the largest domestic violence victim services agency in the United States, are all advocates for our bill and are writing letters of support urging its passage. News outlets, including The New York Daily News and The New York Observer, have also endorsed our bill.

The reason for this support is clear. This bill represents a pragmatic and long overdue recognition that domestic violence is not a one-time event; it is a serious crime that often escalates. S 1510-A / A 1986-A would provide prosecutors with a valuable tool in the fight against domestic violence, and I urge the City Council to pass the resolution calling on the Legislature to pass the bills.

I caution that the fight against domestic violence does not, and cannot, end with this legislation. The relationship between the victim and abuser in domestic violence is often complicated, with victims who may be financially dependent upon their abusers, or after years of abuse blame themselves for the violence. This cycle of abuse and control makes victims particularly vulnerable to intimidation and threats aimed at preventing them from pursuing the prosecution of their abuser.

Even in cases where the victim notifies law enforcement and an arrest is made, we know from long experience that it is extremely difficult to bring a case through to a disposition. Of the 26,280 domestic violence crimes that were arraigned citywide in 2010, fewer than 10,000 resulted in a conviction.

To address these complexities, my office, along with the Mayor's Office to Combat Domestic Violence and the borough president is working to bring a Family Justice Center to Manhattan. This Center is designed to bring under one roof services for those escaping domestic violence. Specifically, the Family Justice Center would focus on improving three types of services for domestic violence victims. The first is Crisis Intervention: The Center would offer victims and their children safety and emergency care at the time of a violent incident. It would also provide long and short-term individual and group counseling that is linguistically, culturally, and age appropriate. Second, it would provide legal assistance: The Center would offer legal counseling, in English and Spanish, as well as support the representation of clients in Family and Supreme Court in matters concerning orders of protection, support, paternity, custody/visitation, and matrimonial proceedings. Third, the Center would provide Educational Outreach. Employees would conduct on and off-site pro se and legal clinics on matrimonial and family court proceedings, immigration issues, and safety planning. The Family Justice Center's client-centered approach will guide victims and enable them to determine their own path of action for improving their well-being. These centers have served thousands of domestic violence victims in Brooklyn, Queens and the Bronx. It is essential that we provide the same services to the citizens of Manhattan.

My office is also dedicated to ensuring the best practices when prosecuting crimes of domestic violence. That is why last year I formed the Special Victims Bureau, to focus on domestic violence, sex crimes, child abuse, and elder abuse. The cases that fall under the purview of the Special Victims Bureau are highly sensitive and involve some of our most vulnerable victims. The consolidation of our resources in one bureau ensures that attorneys who have experience with the sensitive nature of these prosecutions are readily available to bring offenders to justice and to support these victims, whose lives are often upended due to the nature of these types of crimes. The Special Victims Bureau has greatly increased the ability to share information, coordinate training, access investigative resources, and match victims with the appropriate counseling and social services.

In addressing you today, I hope to call your attention to the devastation caused by the proliferation of domestic violence. But I come to you with a message, not of defeat, but of hope for the future. There is much that can – and must – be done in the fight against domestic violence. A very real step forward that we can take as a State is by adopting S 1510-A / A 1986-A to show that in New York, we recognize that domestic violence is a serious offense and that those who commit these crimes will be prosecuted commensurate to the gravity of their offense. This is a bill that all New Yorkers can proudly support. Innocent lives depend upon it.

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