

ORDERS OF PROTECTION FOR VICTIMS OF TEEN DATING VIOLENCE

What Does Teen Dating Violence Look Like?

Adolescents use different language to describe their dating relationships. Often teens use terminology such as “hooking up” or “getting together sometimes” rather than identifying the relationship as “romantic” or labeling their partner as a boyfriend or girlfriend.¹

It is important to recognize that even though the relationship appears casual, the violence can still be severe. Teens are subjected to the same types of abuse in relationships as adults – physical abuse, emotional/verbal abuse, and sexual abuse. In most cases, the abuse escalates over time, sometimes to the point of lethality, and for many teens, especially those seeking legal services, the dating violence is just one small piece of the violence in their lives. Recognizing that youth in middle and high school can perpetrate dating abuse is an important step to providing protections for youth victims.²

Additionally, technology can play a significant role in dating violence. Social media, cell phones, and text messages can become tools of power and control in the hands of an abusive partner. Addressing this harm is critical when creating orders of protection. (Refer to the *Use of Social Media in Teen Dating Violence* Information Sheets for more information.)

Perceived Barriers to Seeking Orders of Protection

Teens may not recognize abuse in their intimate relationships,³ and if there is abuse, many teens are not familiar with the possibility of obtaining an order of protection. Of those who are aware of the remedy, many are still reluctant to report the abuse because of:⁴

- A strong anti-snitch culture (reporting intimate partner abuse to the courts would be akin to “snitching” and therefore not an option; teens might be more likely to try to handle a situation themselves) and machismo culture (male socialization discourages boys from admitting to police any victimization, even serious violence) among youth
- General shame in admitting their victimization
- Fear that the order of protection will not work or that it is not useful (i.e., “It’s only a piece of paper” mentality)
- Safety concerns and apprehension that the violence will increase
- Fear of retaliation, from both the abuser’s and victim’s family and friends
- Long waits in court and inconvenient hours

*This project was supported by Grant No. 2013-TA-AX-K043, awarded by the Office on Violence Against Women, U.S. Department of Justice. The opinions, findings, conclusions and recommendations expressed in this publication are those of the author(s) and do not necessarily reflect the views of the Department of Justice, Office on Violence Against Women.

- A disinclination to let go of the relationship (teens often perceive ending the relationship as a great loss, especially if it entails a loss of their peer group as well)
- Concern that telling someone about abuse would decrease their own control in the situation, reflect badly upon their decision-making, or expose them to more danger

Understanding these concerns can go a long way in assuring youth that an order of protection can increase their safety without turning their lives upside down.

Practice Pointers

Craft Specific Orders

Courts should be willing to grant a civil order of protection even if a criminal order is in place or being sought because the civil order belongs to the victim and will survive even if the criminal case is dismissed or probation expires. The Court decides if the victim has met her burden to issue the order and then considers how to tailor it.

When tailoring the order, recognize that youth have less access to changing their daily social environments than adults, and they rely on the orders to protect safe spaces from the perpetrator's violence. The reality is that the perpetrator may live in the same neighborhood, have mutual friends, use the same transportation, or continue to attend the same school.

- Consider the victim and abuser's shared spaces (e.g., school, neighborhoods, extracurricular activities) as well as social media. For example, instead of stating "Refrain from Communication," an order can extend this restriction to specifically include social media and text messaging, as well as messages from friends and family. Make clear that if the abuser or those indicated within the order make contact, the court will consider it a violation.⁵
- Ask victims what conditions would be helpful and realistic for them.
- Remember that the relief available in adult cases is also available in teen cases, including the federal mandate against gun possession by domestic violence offenders.

Recognize That the Process Can Be Intimidating and Re-Traumatizing

Youth enter the legal system with a different set of experiences that affect their perception. Teens may assume that adults will not understand what they are going through and fear that they will face harsh judgment. Some teens will be nervous and intimidated, some will be eager to please an authority figure, some will appear bold and confident, and others will be hostile and aggressive. Placing aside expectations of how a teen might act helps avoid conclusions that they do not need help.⁶

- Reduce the stress of being in the same room as the abuser, such as allowing the teens to wait in separate areas or limiting the surprise as to when they will be in the same room. Avoid letting the teens leave at the same time. Such acts help promote the feeling of safety.

- Give detailed, written information about the steps in the process, including what to expect and how to prepare. The stress and confusion teens experience during the court process suggests the difficulty young people may have in digesting information or tracking decisions while under extreme stress.
- Provide sensitivity training to court personnel. Tone of voice or other intimidating behavior can inadvertently trigger past traumatic experiences and aggravate current fears. For example, a disapproving tone of voice might make victims think they won't receive a fair outcome.

Demonstrate Taking the Violence Seriously

Appearing in court can be empowering for victims of abuse, especially for teens who are just beginning to stand up for themselves and their rights. Hearing a judge state that the abuser's actions were wrong can go a long way towards restoring the teen's confidence and sense of self.⁷

- Take the extra time to be supportive and compassionate with youth victims. Victims of abuse need to feel that the courts take their experiences of abuse seriously.
- Establish a "zero tolerance" policy. Youth subjected to dating violence may be involved in their first intimate relationship and it is important that all court personnel and court-related professionals convey that all forms of abuse, including physical, sexual, and emotional abuse, have no place in an intimate relationship.
- Monitor the abuser's behavior and compliance with court orders by requiring regular court appearances for status updates and/or progress reports.
- If possible, require the abuser to attend a teen-specific domestic violence intervention program.
- Support the establishment of teen-specific batterer intervention programs in your community.

Questioning a Young Petitioner

- Use open ended questions – let the youth tell their story in their own words.
- Consider the teen's developmental stage when forming questions and interpreting a teen's behavior.
- Avoid legalese; use straightforward language.
- Ask follow-up questions and for clarification of vague or incomplete answers, and explain why you are asking the follow-up questions.
- Teens may use slang or shortcuts in explaining what happened – ask for an explanation if you don't understand.

- Avoid the question "why" unless necessary – adolescents may interpret it as accusatory and shut down.
- Remember, as described in the Information Sheet *The Teenage Brain: New Knowledge from Neuroscience*, teens may look like adults but their brains are still maturing.

The Role of Schools

Victims and abusers often attend the same school. Schools play an important role in enforcing separation, ensuring safety, and understanding/educating others about adolescent dating violence.⁸ Courts can report the existence of an order of protection and provide a picture of the perpetrator to the school. Regardless of how particular schools handle protective orders, judges can take numerous steps to ensure they are honored:

- For example, a school might map out the students' routes between classes, staggering class exit times, changing lunch hours, notifying staff, and if appropriate, having an escort between classes.
- Additionally, schools can implement training and protocol mandates for teachers and administrators, as well as guidelines for enforcing protective orders to increase effectiveness. Such guidelines might include, developing a safety plan, ensuring the victim has a right to a support person at all times, or recognizing victim preference if changes need to be made.⁹
- Courts should always provide a copy of a protective order to the petitioner's teachers and school administrators and make them aware of their own obligations under that order. Once a school knows there is an order, it effectively has notice that a student requires protection.
- Crafting specific orders can help a school understand precisely which accommodations are required. Well-tailored orders tell a school exactly what needs to be done: e.g., keep the students 50 feet apart, change a certain student's schedule, provide a safety escort, etc.
- When a court issues a stay-away order, if the students are in the same class and there is only one class for their age group, the court can specify that the respondent change schools if necessary to comply with the order. This course of action is preferable to risking the petitioner's safety by keeping the students in the same room. This is similar to how courts often require the abuser to leave a shared home, emphasizing that the perpetrators should be the ones to change their lives rather than the victim.

Additionally, courts can hold schools liable for violations of protective orders on their premises through a variety of legal strategies. Although a judge may not be able to hold a school in contempt for not facilitating compliance with the protective order, a student victim may bring a variety of actions against the school.

- **Title IX of the Education Amendments of 1972:** A student might file a Title IX complaint with the Federal Department of Education if a violation of her restraining order has led to a hostile educational environment that the school has failed to address. In bringing a successful Title IX complaint, a student must show that school officials had actual knowledge of the situation, that they were deliberately indifferent to protecting her, and that the situation was so “severe, pervasive, and objectively offensive” that it has barred her access to education. She must be able to show intentional discrimination, which can be demonstrated through indirect evidence – such as failure to act after receiving actual knowledge of the abuse.
- **42 U.S.C § 1983:** A student can bring a claim in federal court under 42 U.S.C. § 1983 if the school or school district acted under color of law to deprive the student of a constitutional right, such as the right to be secure in her person.
- **State Tort Law:** If a school knew of a student’s protective order and failed to accommodate it, a student may claim negligent infliction of emotional distress or third-party tort liability. The student would need to show that both the abuser’s conduct and the student’s injury were foreseeable, and an order of protection would likely provide extremely persuasive evidence of foreseeability.

Adolescent Access to Orders of Protection

Many states grant minors access to orders of protection.¹⁰ However, state laws differ regarding the process and vary considerably as to whether teens can petition for an order of protection on their own behalf.

“Frequently, state family violence laws do not apply to adolescent intimate partner violence; protection often requires that the perpetrator and victim have a history of living together or have a child together, conditions that many adolescents in abusive intimate relations will not meet, making it difficult for adolescent victims to obtain a protective order that can be an essential component of a safety plan, including an order by the court for the removal of the perpetrator’s gun... changes [are] needed to protect [adolescent victims] lives.”¹¹ As an aspect of judicial leadership, if you are in a state where a minor cannot access an order of protection, consider what role you can play in making that accessible.

Below are examples from several states.

Who Can Obtain an Order of Protection?

CALIFORNIA: Cal. Fam. Code § 6211(c) articulates that someone in a dating relationship can perpetrate domestic violence.¹² Under Cal. Code Civ. Proc. § 372(b)(1), a parent or guardian must apply for an order of protection on behalf of a minor under the age of 12.¹³ Minors between the ages of 12 and 18 can apply for an order of protection on their own; however, at least one parent will be notified unless this is not in the minor’s best interest.

DISTRICT OF COLUMBIA: Under D.C. Code § 16-1003, minors can obtain civil protection orders. Victims 16 years and older can file on their own behalf, while victims 12-15 years old can file only if they are a victim of intimate partner violence and victims under 12 need a parent, guardian, or custodian to file on their behalf.¹⁴ Additionally, victims can obtain an order of protection against another minor who is 12 years or older.

Who Can Obtain an Order of Protection? (cont'd)

DISTRICT OF COLUMBIA (cont'd): There are two requirements to obtaining a civil protection order. First, the victim must demonstrate intimate partner violence, interpersonal violence, or intrafamily violence.¹⁵ Second, the victim must prove there is good cause to believe the abuser committed or threatened to commit a criminal offense against the person.¹⁶

FLORIDA: Fla. Stat. § 784.046: “Dating violence” means violence between individuals who have or have had a continuing and significant relationship of a romantic or intimate nature.

Any person who is the victim of dating violence and has reasonable cause to believe he or she is in imminent danger of becoming the victim of another act of dating violence, or any person who has reasonable cause to believe he or she is in imminent danger of becoming the victim of an act of dating violence, or the parent or legal guardian of any minor child who is living at home and who seeks an injunction for protection against dating violence on behalf of that minor child, has standing in the circuit court to file a sworn petition for an injunction for protection against dating violence.

ILLINOIS: In Illinois, under 750 ILCS 60/201(a), any person abused by a “family or household member,” with “person” including a minor child, can seek an order of protection.¹⁷ The definition of “family or household member” includes persons who have had a dating relationship but excludes casual acquaintances or ordinary fraternization in a business or social context.¹⁸ Minors cannot be denied an order of protection even when it is against another minor.¹⁹ However, minors cannot apply for an order of protection without an adult.

NEW YORK: The Family Court Act § 812²⁰ lists four categories of persons who can “originate” order of protection proceedings which include: any person related to the respondent as their spouse, former spouse, parent, and child or member of the same family or household. As of 2008, those involved in intimate and dating relationships fall into the category of household members and are permitted to obtain orders of protection.

The court uses certain factors to determine whether such a relationship is actually a “dating or intimate” relationship, including: the nature of the relationships, the frequency of interaction between the persons, and the duration of the relationship. Two people do not need to have a sexual relationship in order for that relationship to qualify under this section of the statute. The statute warns that neither “casual acquaintances nor ordinary fraternization between two individuals in business or social contexts” will be considered under this category of relationships.

There are no age restrictions on who can petition and obtain an order of protection in the New York Family Courts, nor who can be a respondent of an order. A parent can also commence action against a minor under the age of 16 if that minor has committed one of the specific offenses listed under Family Court Act § 812(1).²¹ Additionally, in New York Family Court, the judge will ask the petitioner, regardless of age, whether they want an attorney or not. In most Family Court proceedings, parties are entitled to a lawyer. If a party cannot afford one, the court will usually assign one.²²

OHIO: Dating violence is not defined in any Ohio statute related to orders of protection. Dating violence is defined in the statute permitting dating violence education programs in school ORC Ann. § 3313.666 as “harassment, intimidation or bullying.” As of June 2010 a minor, or her/his parent or guardian, can get a civil²³ or criminal²⁴ order of protection against another minor. The language of the domestic violence definition statute has not changed to permit respondents who are in dating relationships that do not result in a child to petition for an order of protection. However, in practice, it is possible for a person to obtain an order of protection because the order is based “not on the definition [of a respondent] but on the crime.” The statute that permits criminal orders of protection against minors lists a host of crimes for which an order of protection can be issued.²⁵

Keep In Mind

Break the Cycle, a national organization dedicated to providing comprehensive dating abuse programs exclusively to young people, offers these suggestions for courts:²⁶

- Challenge yourself to see every teen as an individual rather than a stereotype.
- Youth often know less than the average adult about court procedures, the legal system, and their legal rights. Explain the conditions of the order clearly and the options for modifying the order to accommodate schedule or life changes to both parties using developmentally and age appropriate language.
- Teens face different practical concerns than adults – they may attend the same school, share a friend group, or participate in the same activities as their abusive partners.
- Don't take a teen's behavior personally – it may just be nerves or difficulty talking to adults.
- Ask questions – don't make assumptions about the youth, their case, or their relationship.
- Whenever possible, share info on a "need to know" basis and let teens know which other officers will have access to their case file and what they will do with the information.

Endnotes

1. DC Superior Court's Judicial Benchcard for Protection Order Hearings Where Either or Both of the Parties are Minors
2. Youth Access to Protection Orders: A National Overview, Break the Cycle (Fall 2014), http://www.breakthecycle.org/sites/default/files/Youth%20Access%20to%20Protection%20Orders%20-%20A%20National%20Overview_0.pdf.
3. Teen Dating Abuse Report 2009: Impact of the Economy and Parent/Teen Dialogue on Dating Relationships and Abuse (June 2009), available at <https://www.breakthecycle.org/sites/default/files/pdf/survey-lina-economy-2009.pdf>.
4. Andrew Klein, et al., *An Exploratory Study of Juvenile Orders of Protection as a Remedy for Dating Violence*, Report Number 242131 (April 29, 2013), available at <https://www.ncjrs.gov/pdffiles1/nij/grants/242131.pdf>.
5. During the first appearance in criminal proceedings, no contact orders frequently prohibit all contact, including texting, email, phone, and through friends. Additionally, §1203.097 of the California Penal Code requires a court to issue a protection order as a condition of probation in adult cases, a requirement easily transferrable to teen cases. The Court can then monitor the teen's compliance during mandatory probation reviews. See Eugene M. Hymen, Wanda Lucibello & Emilie Meyer, *In Love or in Trouble*, 61 JUVENILE AND FAMILY COURT JOURNAL 17, 28 (Fall 2010).
6. *Supra* note 4.
7. Break the Cycle: Working With Teen Victims of Dating Violence, http://www.breakthecycle.org/sites/default/files/Law_Enforcement.pdf.

8. See, e.g., Thomas A. Mayes, *Students with No-Contact Orders Against Abusive Classmates: Recommendations for Educators*, 52 PREVENTING SCHOOL FAILURE 37 (2008).
9. *Supra* note 4.
10. *Supra* note 3.
11. Nancy Glass et al., *Young Adult Intimate Partner Femicide: An Exploratory Study*, 1 HOMICIDE STUDIES 177, 182-183 (2008).
12. Cal Fam. Code § 6211(c).
13. Cal Code Civ. Proc. § 372(b)(1).
14. D.C. Code § 16-1003(a).
15. See D.C. Code § 16-1003(6)-(10) (defining the different categories of violence).
16. See DC Superior Court's Judicial Benchcard for Protection Order Hearings Where Either or Both of the Parties are Minors
17. 750 ILCS 60/201(a).
18. 750 ILCS 60/103(6).
19. 750 ILCS 60/214(a) ("Petitioner shall not be denied an order of protection because petitioner or respondent is a minor.").
20. N.Y. FAM. CT. ACT LAW § 812(1) (CONSOL. 2015).
21. See *Paula S. v. Steven S.*, 585 N.Y.S.2D 964 (N.Y. Fam. Ct. 1992).
22. NYCOURTS.GOV: NEW YORK STATE UNIFIED COURT SYSTEM, <https://www.nycourts.gov/courts/6jd/tompkins/family/you.shtml> (last visited Sept. 30, 2015).
23. ORC Ann. § 3113.31.
24. ORC Ann. § 2151.34.
25. See ORC Ann. § 2151.34(A) (2) (a).
26. Break the Cycle: Working With Teen Victims of Dating Violence, http://www.breakthecycle.org/sites/default/files/Law_Enforcement.pdf.