



***Extending Access to Justice to Unpopular Clients: Representation of Respondents
in Civil Protection Order Cases***

**Bellow Scholar Presentation
AALS Conference on Clinical Legal Education
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Notes & PowerPoint Presentation

Genesis of the Project

Background:

- **How I came up with this idea**
 - Past work experiences representing respondents in civil protection order cases in DC Superior Court
 - Little to no legal or social service referrals/resources for respondents in CPO cases
 - Observation of the lack of representation of respondent advocates in the development of judicial policies in the administration of the Domestic Violence Division
 - The seemingly one-sidedness of how decision are rendered in CPO courts.

- **Rising for Justice (formerly DC Law Students in Court) -Civil Protection Order Project**
 - Brainchild of Moses Cook, former executive Director and Keeshea Turner Roberts
 - In 2017, RFJ began providing pro bono representation to some respondents in CPO and criminal domestic violence hearings. We conducted intakes, client interviewing and counseling, assistance in required mediations between the parties, as well as representation in CPO trials. All work that was done at this time was in addition to Keeshea Turner Roberts' other teaching and supervising roles.
 - Obtained some grant money to fund the project and RFJ were able to hire a full-time staff attorney whose job was to staff the court office three days per week.
 - Additionally, we recruited and trained several pro bono attorneys, paralegals, and law students from the George Washington Law School to help with intakes, client interviews, and CPO court observations.
 - Funding ended in 2019 and as a result, the services that CPO provided was greatly reduced. In 2020, there was another reduction in staff which resulted in the project providing limited help in CPO matters.
 - As of the date of this presentation, RFJ is in the process of hiring a staff attorney who will provide services on behalf of respondents on as part time basis.



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Procedural Justice:

- **Elements of Procedural Justice –**
 - Whether they were treated with **dignity and respect**; = **RESPECT**
 - Whether they were given **voice**; = **VOICE**
 - Whether the decision-maker was **neutral and transparent**; = **NEUTRAL** and
 - Whether the decision-maker conveyed **trustworthy** motives. = **TRUSTWORTHINESS**

- **Civil Gideon**
 - Pro se litigants are faced with convoluted jargon without the help of legal counsel to hear their positions and explain the court's procedures, respondents are left feeling upset, discouraged and suspicious of the legal system.
 - Proceedings viewed as "unfair" by respondents.
 - Evidence suggest that people care as much or more about procedural justice that they care about the outcome of a case in their evaluation and satisfaction with legal procedures.
 - A belief that one was treated fairly may be crucial in whether litigants accept the outcome of their cases.
 - Procedural justice is important – especially in CPO cases for both petitioners and respondents because high levels of perceived fairness may decrease violations of orders thus ensure the safety of petitioners.

Gaps in the Literature:

- Research has been heavily shewed in favor of the Petitioner.
- No monies allocated to the study of this topic - not a popular topic!
- Only article that has been written is over 10 years old – but also suggests that restoring the procedural rights of respondents will in turn benefit petitioners.
- The purpose of this project is to fill in those gaps in the literature.

Project Description

Research Questions to be Examined:

- What are the differences in procedural experiences, substantive outcomes, and compliance for pro see parties and represented parties in civil protective order hearings?



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- How do protection order hearings and outcomes change when the courts operate remotely via technology?

Project Design

“Natural Experiment”

- Differential rates of representation during the study period
 - No respondent representation
 - Some respondent representation
 - More respondent representation
- Delay of CPO hearings during the pandemic
 - Examine the number and type of uncontested CPO hearings & number and type of TPO violations in relation to representation.
- Impact of extended Temporary Protective Orders (TPOs) hearings
 - Comparison of hearings and outcomes before, during, and after the pandemic

Multi-method Design

- Archival court records review – cases from 2016-2021
 - Analyzing the circumstances alleged in the petition, characteristics of petitioner/ respondent, and access to representation – predict hearing outcomes and subsequent compliance.
- Observations of court hearings – in person and remotely – interested in the nature of the interactions between the parties, the demeanor of parties and for CPO hearings, the extent of respondent participation.
- Interview with respondents – interviewing 30 respondents about their court experiences to obtain first-hand knowledge that will complement the observational and archival data.

It is my hope that this project will lead to the **improvement of Access to Justice** for Respondents in CPO cases.

- Exposing disparities respondents face without representation;
- Furthering civil Gideon/ procedural justice principles;
- Decrease the likelihood of violations of entered orders; and
- Change the perceptions of who is a respondent and biases (overt and covert) in the judicial process.



Project Timeline

Challenges in Collecting Data

- COVID-19 created a due process problems in TPO cases in the District of Columbia.
 - TPO hearings are *ex-parte* proceedings; orders are usually entered based on the testimony of the petitioner.
 - CPO hearings are being scheduled months in the future – between 4 to 8 months between the entry of the TPO and the CPO trial day.
 - Respondents are left with complying for a TPO for months – meaning their access to housing or their children, for example, may be prohibited until the resolution of the CPO case.
 - Respondents may or may not understand the process that one must go to modify or vacate the TRO. Additionally, respondents may just enter an order to avoid further litigation.
 - As a result, there will be likely increase of violations during this time.
- Archival Data Collection has stalled.
 - Court office is closed because of COVID-19 thus preventing archival collection.
 - Because of the nature of the information to be collected, we are unable to access the petitions remotely because of confidentiality concerns.
 - Remote observation will go forward this summer.

Data Collected

- The following data was collected between September 2019 to February 2020
 - 209 Petitions for Protective Orders
 - 183 Temporary/Emergency Protective Orders
 - 71 Granted Civil Protection Orders
- Sample size of data = 71 cases