

**JUDICIAL COUNCIL OF CALIFORNIA
ADMINISTRATIVE OFFICE OF THE COURTS**

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Report Summary

TO: Members of the Judicial Council

FROM: Domestic Violence Practice and Procedure Task Force
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DATE: January 16, 2008

SUBJECT: Domestic Violence: Final Report of the Domestic Violence Practice and Procedure Task Force (Action Required)

Issue Statement

On September 6, 2005, Chief Justice Ronald M. George appointed the Domestic Violence Practice and Procedure Task Force to recommend changes to improve court practice and procedure in cases involving domestic violence allegations. The task force was further instructed that its recommendations should address the fair, expeditious, and accessible administration of justice for litigants in domestic violence cases.

More specifically, the task force charge included the review and implementation, as appropriate, of court-related recommendations contained in the June 2005 report to the California Attorney General from the Task Force on Local Criminal Justice Response to Domestic Violence, *Keeping the Promise: Victim Safety and Batterer Accountability*.

The task force, in fulfilling its charge, developed and revised a series of 139 guidelines and recommended practices over the last two years. These guidelines and practices relate to court leadership, restraining orders under the Domestic Violence Prevention Act (DVPA), firearms relinquishment, entry of restraining and protective orders in the Domestic Violence Restraining Order System (DVROS), and criminal law procedures.

The proposals, viewed collectively, fit squarely within the Judicial Council's six strategic goals of Access, Fairness, and Diversity; Independence and Accountability; Modernization of Management and Administration; Quality of Justice and Service to the Public; Education for Branchwide Professional Excellence; and Branchwide Infrastructure for Service Excellence. They also are guided by the findings contained in

the Judicial Council's study on public trust and confidence in the courts, emphasizing the public's need for an opportunity to be heard and an understanding of court proceedings.

Task force recommendations and highlights from the proposed guidelines and practices are presented in the report to the Judicial Council. Background information, methodology, and the full text of the proposed guidelines and practices are set forth in the final report, *Guidelines and Recommended Practices for Improving the Administration of Justice in Domestic Violence Cases: Final Report of the Domestic Violence Practice and Procedure Task Force*.

Recommendation

The Domestic Violence Practice and Procedure Task Force recommends that the Judicial Council, effective February 22, 2008:

1. Receive and accept the final report from the Domestic Violence Practice and Procedure Task Force;
2. Request appointment of an implementation task force to ensure that the recommendations are referred to the appropriate advisory committees, Administrative Office of the Courts (AOC) division, or other entity for review and preparation of proposed legislation, rules, forms, or educational materials to be considered through the normal judicial branch processes;
3. Direct the implementation task force to work collaboratively with the Judicial Council's Governing Committee of the Center for Judicial Education and Research (CJER) to revise the rules relating to minimum educational requirements so that domestic violence issues are mandatory components of courses that meet the minimum requirements for new judges and judges new to a family law, juvenile law, criminal law, or probate assignment;
4. Direct the implementation task force to undertake a study to determine the additional resources that courts may require to ensure that implementation of the proposed guidelines and practices can be achieved; and
5. Request the implementation task force to report progress to the council on implementation of the recommendations by June 2009.

Rationale for Recommendation

The task force recommends that the Judicial Council receive and accept its report. Many of the proposed guidelines and practices will require specific implementation and oversight. Accordingly, the task force suggests that an implementation task force with budgetary, rule making, legislative, and judicial expertise, monitor implementation of these practices, refer proposals to relevant Judicial Council advisory committees or internal committees for consideration of needed legislation, rules, forms and educational materials. This task force would report progress to the Judicial Council, helping to ensure that the task force proposals become a regular part of practice and procedure in domestic violence cases. The implementation task force should also undertake a study to determine what specific additional resources may be required to implement specific proposals.

Alternative Actions Considered

The task force members determined that, in general, imposing new mandates and requirements without attendant resources would not necessarily improve the administration of justice in domestic violence cases. Rather, the task force believes that the requirements of existing law together with the best practices of those courts with sufficient resources can and have resulted in excellence in the administration of these critical cases. The task force goal is to make these requirements and practices, tailored when necessary to the needs of local jurisdictions, accessible and feasible throughout the state.

Comments From Interested Parties

After developing its draft guidelines and practices, the Domestic Violence Practice and Procedure Task Force engaged in a comprehensive process to obtain statewide comment and evaluation of its proposals. The task force:

- Distributed its draft report for statewide written comment in January 2007, with comments due on June 30, 2007;
- Conducted two public hearings, one in Los Angeles on March 14, 2007, and one in San Francisco on March 21, 2007;
- Conducted three regional court meetings in Santa Rosa (May 14–15, 2007), Burlingame (May 21–22, 2007), and Torrance (June 6–7, 2007); and
- Held interactive meetings with Judicial Council advisory committees.

The task force then engaged in a detailed examination and analysis of the comments received, the public hearing testimony, the regional meeting summaries, and the suggestions derived from other Judicial Council advisory committees. In reviewing this data, the task force focused on the following overarching principles:

- Promote the safety of all court participants;
- Ensure accountability of domestic violence perpetrators;
- Improve accessibility to the courts for the parties by maximizing convenience, minimizing barriers, and ensuring fairness for a diverse population;
- Promote the use of technology to enhance the administration of justice in cases involving domestic violence allegations; and
- Emphasize the need for court leadership and adequate resources.

Implementation Requirements and Costs

Implementation task force

Adjudication of domestic violence issues, as well as issuance of domestic violence restraining and protective orders, can occur in an array of substantive proceedings, including those relating to criminal law, family law, proceedings under the Domestic Violence Prevention Act, juvenile dependency, juvenile delinquency, and probate. For this reason, domestic violence overlaps and will involve several Judicial Council advisory committees including the Collaborative Justice Courts Advisory Committee, the Criminal Law Advisory Committee, the Family and Juvenile Law Advisory Committee, and the Probate and Mental Health Advisory Committee. Thus the need for a small coordinating task force going forward.

Judicial education

The task force wishes to underscore the importance of ensuring that every judicial officer who may potentially adjudicate these cases has sufficient education about their unique features. Therefore, it recommends that the implementation task force work with the CJER Governing Committee to mandate education as appropriate.

Resources

The task force submitted 139 recommendations. Some of them are based on existing legislation and case law. Others go further. Throughout its inquiry, the task force was impressed by the need for appropriate augmentation and allocation of staff resources in these critical cases. On many occasions, those who testified at the public hearings or participated at the regional court meetings spoke about the desire to implement best practices and the barriers presented to achieving goals by a lack of available resources. Accordingly, one of the duties of the implementation task force should be to undertake a staffing study of the resources needed to carry out the best practices recommended in this report.