



Judicial Council of California • Administrative Office of the Courts

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REPORT TO THE JUDICIAL COUNCIL

For business meeting on: August 23, 2013

Title

Domestic Violence: Final Implementation
Report of the Domestic Violence Practice and
Procedure Task Force

Agenda Item Type

Action Required

Effective Date

September 1, 2013

Rules, Forms, Standards, or Statutes Affected

None

Date of Report

August 8, 2013

Recommended by

Domestic Violence Practice and Procedure
Task Force
Hon. Laurence D. Kay (Ret.), Chair

Contact

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Executive Summary

The Domestic Violence Practice and Procedure Task Force recommends that the Judicial Council direct the Family and Juvenile Law Advisory Committee to be responsible for a proposal about firearm relinquishment in family law matters and the Violence Against Women Education Project (VAWEP) Planning Committee, whose members are selected by the advisory committee co-chairs, to be responsible for the remainder of the task force's projects. The task force further recommends that the Family and Juvenile Law Advisory Committee and VAWEP consult with other interested committees and groups to develop a process to address ongoing and emerging issues of court practice and procedure in criminal and civil domestic violence cases. These recommended efforts would ensure continued progress on the council's commitment to improving practices and procedures in domestic violence cases. Also, restructuring the governance, structure, and organization of the Judicial Council's advisory groups improves the function of these groups.

Recommendation

The Domestic Violence Practice and Procedure Task Force recommends that the Judicial Council receive and accept the task force's final implementation report and, effective September 1, 2013:

1. Direct the Family and Juvenile Law Advisory Committee to continue to be responsible for the draft rule on firearms relinquishment developed as a consensus draft by the advisory committee and the task force (see Attachment B: Domestic Violence Practice and Procedure Annual Agenda, Project 6);
2. Direct the Violence Against Women Education Project (VAWEP) Planning Committee, whose members are selected by the co-chairs of the Family and Juvenile Law Advisory Committee, to be responsible for the remaining items on the task force's annual agenda that relate to technical assistance, education, bench tools, publications, distance learning, and the California Courts Protective Order Registry (CCPOR) (see Attachment B, Projects 3-5 and 7-10); and
3. Direct the Family and Juvenile Law Advisory Committee in conjunction with VAWEP and in consultation with other advisory committees and groups, as needed, recommend a future process to address ongoing and emerging issues on court practice and procedure in criminal and civil domestic violence cases. (see Attachment B, Project 2).

Previous Council Action

Effective April 25, 2013, the Judicial Council, in an effort to improve governance, structure, and organization of its advisory groups, directed the task force to complete as many of its projects as possible by September 1, 2013; directed the task force chair to submit a report by August 1, 2013, for consideration at the council's August meeting; and indicated that unfinished projects should be merged with the work of VAWEP. (See Attachment A for VAWEP's fact sheet and annual report.)

The task force was appointed by former Chief Justice Ronald M. George in September 2005 in response to a report to the Attorney General by the Task Force on Local Criminal Justice Response to Domestic Violence, which was sharply critical of court practice in certain key areas of criminal procedure and restraining and protective orders.¹ Chief Justice George charged the task force to:

- Submit recommendations to the Judicial Council or its advisory committees for changes in the practice, procedure, or administration of cases involving domestic violence allegations;
- Review practice and procedure and make recommendations that ensure the fair, expeditious, and accessible administration of justice for litigants in domestic violence cases; and

¹ *Keeping the Promise: Victim Safety and Batterer Accountability*, Report to the California Attorney General from the Task Force on Local Criminal Justice Response to Domestic Violence (June 2005).

- Review the recommendations contained in the Report to the California Attorney General from the Task Force on Local Criminal Justice Response to Domestic Violence (June 2005) and ensure the implementation of recommendations relating to the courts, as the Judicial Council deems appropriate.

After conducting a series of fact-finding efforts, described in more detail in Attachment C to this report, the task force submitted its report and recommendations to the Judicial Council in February 2008. The report to the council was received and accepted, and the task force was instructed to implement its recommendations in the following charge:

- Implement as appropriate the guidelines and the practices in the Final Report of the Domestic Violence Practice and Procedure Task Force accepted by the Judicial Council on February 22, 2008 (see final report at Attachment D);
- Select and refer guidelines and practices, as appropriate, to Judicial Council internal committees, advisory committees, AOC divisions, or other entities for implementation, including preparation of suggested legislation, rules, forms, or educational materials to be considered through the normal judicial branch processes;
- Collaborate with the Center for Judicial Education and Research Governing Committee to propose revision of the rules relating to minimum judicial educational requirements to address issues of domestic violence;
- Study the need for additional resources that local courts may require to implement the proposed guidelines and practices; and
- Periodically report progress of implementation efforts to the Judicial Council.

(For a summary of the task force's implementation efforts in furtherance of its charge, see Attachment C.)

Implementation efforts

In carrying out its implementation activities, the task force worked with other Judicial Council advisory groups and various staff entities of the Administrative Office of the Courts. The task force submitted status reports to the Judicial Council on October 23, 2009, and July 20, 2010, and the task force report was cited in appellate cases and by other entities.

Educational programs

The 139 task force guidelines and practices were incorporated into a wide array of educational programs and workshops in collaboration with the Center for Judiciary Education and Research (CJER) and with the participation of the VAWEP committee. The educational workshops and programs were fully funded by the federal grant administered by the VAWEP committee. During the implementation phase, a total of 191 programs or workshops were conducted. Of these, 21 related to criminal law, 55 concerned family law, 13 addressed juvenile law, 7 were in probate law, and 25 were interdisciplinary. The programming also involved 3 classes for assigned judges, 23 workshops at conferences, 2 distance learning projects, 34 local court trainings, and 8 specialized informational meetings. The number of programs and workshops conducted during this period represents an increase since 2005 due to the continued availability of grant funding. The programming, in addition, meets the legal mandate of Government Code section 68555, which requires the Judicial Council to establish judicial training programs in domestic violence,

and the requirements of California Rules of Court, rule 10.464 concerning judicial education about domestic violence.

Publications and bench tools

With the collaboration and assistance of CJER and under the auspices of VAWEP, task force recommendations were integrated into ten judicial benchbooks and tools. Two benchbooks, one on issues relating to restraining and protective orders and one on domestic violence and dependency, have been completed and consistently updated. A benchbook on elder abuse is in development. Various bench cards and a judicial newsletter have been distributed and posted online.

Rules of court

The task force submitted a joint proposal with CJER that required judicial education on domestic violence as part of the regular educational requirements and expectations for those in key assignments who frequently hear cases involving domestic violence cases. The proposal was adopted by the Judicial Council as California Rules of Court, rule 10.464, effective January 1, 2010.

The task force also proposed, and the council adopted, a rule of court concerning firearm relinquishment in criminal cases. See California Rules of Court, rule 4.700, effective July 1, 2010.

Form changes

The task force activities included two key suggested revisions to domestic violence forms that were recommended to the Family and Juvenile Law Advisory Committee and ultimately adopted by the council. One such revision concerned changes to the *Emergency Protective Order* form (EPO-001) that required a law enforcement officer at the scene of a domestic violence incident to delineate whether a firearm was observed, reported, searched for, or seized. The second change concerned the *Notice of Court Hearing (Domestic Violence Prevention)* (DV-109) and the *Temporary Restraining Order* (DV-110), which were revised in response to a task force guideline recommending that a hearing should be conducted whenever a jurisdictionally adequate application for a temporary restraining order under the Domestic Violence Prevention Act is submitted. In *Nakamura v. Parker* (2007) 156 Cal.App.4th 327, the court cited the task force guideline, and Family Code section 6320.5 was subsequently enacted codifying the holding in *Nakamura*. Revisions to the domestic violence forms were conducted consistent with comprehensive changes to forms for all areas of protective orders based on the need for more uniformity and efficiency. The comprehensive revisions were submitted by the Family and Juvenile Law Advisory Committee and its Protective Order Working Group.

California Courts Protective Order Registry (CCPOR) Project

After a comprehensive symposium on the entry of restraining and protective orders into the California Protective and Restraining Order System (CARPOS)², the task force urged the Administrative Office of the Courts to launch a statewide database of restraining and protective orders so that courts could view the full text of these orders not only within different departments

² Formerly the Domestic Violence Restraining Order System (DVROS) housed within the California Law Enforcement Telecommunications System (CLETS).

of the same court but also in different courts throughout the state. The database, initiated by the AOC's Information Technology Services Office, has been substantially grant-funded. To date, 30 courts and 8 tribal courts have implemented the database known as the California Courts Protective Order Registry (CCPOR). (See Attachment E for a CCPOR fact sheet and deployment map.)

Appellate and other citations

The task force report and its recommendations have assisted in the adjudication of two appellate cases. First, in *Gonzalez v. Munoz* (2007) 156 Cal.App.4th 413, the appellate court recognized the importance of the task force in "ensuring fair, expeditious, and accessible justice for litigants in these critical cases." And again, in *Nakamura*, see above, the appellate court cited one of the primary guidelines contained in the task force's 2008 report relating to restraining orders.

The task force report has also been used in local jurisdictions to improve practice and procedure in domestic violence cases. For example, the Justice and Courage Oversight Panel, a committee of the Commission on the Status of Women in San Francisco, conducted an audit of the system in 2006. In March 2007, the panel issued its report, "Safety for All: Identifying and Closing the Gaps in San Francisco's Domestic Violence Criminal Justice Response." The audit team recommended that the court develop a local domestic violence benchbook for new judges on the protocols and dynamics of domestic violence cases. San Francisco Superior Court Judge Mary Morgan (Ret.) and current San Francisco Superior Court Presiding Judge Cynthia Lee developed this benchbook and distributed it to bench officers in 2009. In conjunction with this document, the court also uses the 2008 task force report.

Rationale for Recommendation

Firearms relinquishment

As part of its ongoing implementation efforts, the task force presented a proposed rule relating to firearms relinquishment in family law matters to the Rules and Projects Committee (RUPRO). In response, committee chair, Justice Harry E. Hull, requested the task force to attempt to achieve consensus among its members and the members of the Family and Juvenile Law Advisory Committee. The members of the task force and the advisory committee have achieved consensus on a proposed rule that will be submitted to RUPRO to consider whether the proposal should be circulated for statewide comment. The task force will conclude its business on September 1, 2013. Accordingly, the task force recommends that the advisory committee be directed to continue to handle the proposal after that date.

Remaining projects on annual agenda

In their report to the Judicial Council, the chairs of the Executive and Planning Committee, Rules and Projects Committee, and Technology Committee indicated that the uncompleted items contained on the task force's annual agenda should be merged with the projects currently being handled by VAWEP.³ Accordingly, that is the task force recommendation.

³ VAWEP is a planning committee whose members are selected by the co-chair of the Family and Juvenile Law Advisory Committee. The committee was convened to comply with grant requirements and consists of members suggested by the funder, members who also serve on the advisory committee, and others with expertise in domestic violence arising in different case types.

Future process to address domestic violence

Domestic violence is serious court business arising in a multiplicity of case types. Domestic violence cases result in significant costs to the courts and to the public, costs that increase exponentially when the early stages of the violence are not properly identified nor adjudicated. Scarcity of resources may mean that interventions required by law are not sufficiently available in all locations. Solutions to gaps in court practice and procedure are systemic because the problems are systemic. Task force members have identified the need for low- or no-cost, ongoing, creative, and sustainable solutions. The solutions must be cooperative and collaborative requiring the continued involvement of relevant justice system entities to contribute suggestions and formulate ideas to ensure that safety is primary, accountability is imposed, and the rights of the parties are respected and enforced. Courts should appropriately allocate resources to domestic violence cases and guarantee the delivery of fair and accessible justice by an educated and knowledgeable judiciary.

The former Chief Justice appointed the task force in recognition of this need and in response to significant criticism contained in a report submitted to the California Attorney General. The report was critical of all justice system entities. The Legislature also conducted a comprehensive audit of judicial education requested by then Assembly Member Rebecca Cohn. The audit contained a special focus on the sufficiency of judicial education related to domestic violence. The audit results demonstrated substantial accomplishments in this area.⁴ The task force members believe that the complexity and interdisciplinary nature of domestic violence requires a group devoted to the topic as its top priority that will continue to work collaboratively with advisory committees and groups to truly ensure the “fair, expeditious, and accessible justice for litigants” in domestic violence cases. The task force members also note that the interdisciplinary nature of domestic violence and its presence in a wide variety of case types, such as criminal, family, juvenile, and probate, would support an ongoing entity to make recommendations to the Judicial Council for improving practice and procedure in this area in collaboration with other council committees and groups.

The task force is mindful of the need for streamlining and consolidating advisory groups in this time of scarce resources, but the members believe that further analysis should be conducted to address future needs. Accordingly, the task force recommends that the Judicial Council direct that the Family and Juvenile Law Advisory Committee in conjunction with VAWEP and in collaboration with other advisory committees and groups submit recommendations to the council for the best way to assist the council in addressing statewide domestic violence issues on an ongoing basis.

Comments, Alternatives Considered, and Policy Implications

The Judicial Council’s Executive and Planning and Rules and Projects Committees considered various alternatives as part of a comprehensive review of the governance, structure, and organization of the council’s advisory groups, and the committees’ recommendations were

⁴ California State Auditor, Bureau of State Audit Reports, Judicial Council of California: Its Governing Committee on Education Has Recently Proposed Minimum Education Requirements for Judicial Officers (August 2006).

approved by the council. The task force recommendations are consistent with the council's directives and recognize the need for consideration after further research and analysis.

Implementation Requirements, Costs, and Operational Impacts

No costs to the judicial branch will be incurred by adoption of these recommendations. The Family and Juvenile Law Advisory Committee has already undertaken consideration of the firearms relinquishment proposal and will submit it to the Rules and Projects Committee in the normal course of considering proposals for changes to rules and forms. VAWEP is a grant-funded entity charged with developing and evaluating judicial branch education and providing technical assistance in the areas of domestic violence, sexual assault, elder abuse, teen dating violence, stalking, and human trafficking in state and tribal courts. Its activities, if approved by the funder, will be fully reimbursed from federal dollars granted to the Judicial Council.

Relevant Strategic Plan Goals and Operational Plan Objectives

The projects contained in the task force annual agenda and these recommendations further the Judicial Council's strategic plan goals and operational plan objectives as described below.

The projects relating to firearm relinquishment and CCPOR (Projects 6, 10) are consistent with Judicial Council strategic Goal III (Modernization of Management and Administration) and objectives under that goal, objective 4 (Uphold the integrity of court orders, protect court user safety, and improve public understanding of compliance requirements; improve the collection of fines, fees, and forfeitures statewide) and objective 5 (Develop and implement effective trial and appellate case management rules, procedures, techniques, and practices to promote the fair, timely, consistent, and efficient processing of all types of cases).

The task force projects regarding a new role for the VAWEP planning committee (Projects 1, 2) relate to Goal IV (Quality of Justice and Service to the Public) and two objectives under that goal: objective 1 (Foster excellence in public service to ensure that all court users receive satisfactory services and outcomes) and objective 3 (Develop and support collaborations to improve court practices, to leverage and share resources, and to create tools to educate court stakeholders and the public).

Finally, task force projects relating to education and technical assistance (Projects 3-5 and 7-9) are in furtherance of Goal V (Education for Branchwide Professional Excellence) and objective 1 under that goal (Provide relevant and accessible education and professional development opportunities for all judicial officers (including court-appointed temporary judges) and court staff).

Attachments

1. Attachment A: VAWEP Fact Sheet and Annual Report
2. Attachment B: Annual Agenda, Domestic Violence Practice and Procedure Task Force

3. Attachment C: Domestic Violence Practice and Procedure Task Force Chronology and Projects, 2005–2013
4. Attachment D: 2008 Report of the Domestic Violence Practice and Procedure Task Force California Court (with endnotes updated to reflect changes to statutes and rules)
5. Attachment E: California Courts Protective Order Registry Fact Sheet and Deployment Map



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FACT SHEET

May 2013

Violence Against Women Education Project

Domestic violence, sexual assault, stalking, teen dating violence, human trafficking, and elder abuse are critical issues facing family, criminal, and juvenile courts in California. The Violence Against Women Education Project (VAWEP) is an initiative designed to provide tribal and state courts with information, equipment, technical assistance, educational materials, and programs on the role of the courts in responding to cases involving these issues. VAWEP is a project of the Center for Families, Children & the Courts (CFCC) of the Judicial and Court Operations Service Division, Administrative Office of the Courts the administrative agency for the Judicial Council of California. The project is being implemented in collaboration with the Office of Education/Center for Judicial Education and Research (CJER) and is funded by the California Emergency Management Agency (Cal EMA) with resources from the federal Office on Violence Against Women (OVW). The project's planning committee, composed of a tribal court judge, who also serves as a liaison to the California Tribal Court/State Court Forum, and state judicial officers, prosecutors, defense attorneys, attorneys with expertise in the field of domestic violence, victim advocates, and other experts, guides the project staff in identifying key areas of focus and developing appropriate educational programming. The statewide domestic violence needs assessment, conducted as part of the Native American Communities Justice Project, also informs the work of VAWEP.

Support for this publication was provided by the California Emergency Management Agency (Cal EMA) through Grant Award Number CW12111535, awarded to the Administrative Office of the Courts. Points of view in this document are those of the author and do not necessarily represent the official position or policies of Cal EMA.

Project Goals

The goals of VAWEP are to:

- Identify primary educational and informational needs of the courts on domestic violence, sexual assault, stalking, teen dating violence, human trafficking, and elder abuse issues;
- Initiate new judicial branch educational programming pertaining to domestic violence, sexual assault, stalking, teen dating violence, human trafficking, and elder abuse issues, including the delivery of regional training events and the enhancement of existing programming;

- Develop distance learning opportunities for judicial officers and court staff relating to court procedure and policy in the areas of domestic violence, sexual assault, stalking, teen dating violence, human trafficking, and elder abuse;
- Develop and compile useful information for the courts on domestic violence, sexual assault, stalking, teen dating violence, human trafficking, and elder abuse issues that relates specifically to California law;
- Institutionalize inclusion of domestic violence, sexual assault, stalking, teen dating violence, human trafficking, and elder abuse issues in all relevant judicial branch education curricula, programs, and publications;
- Create incentives to increase attendance and participation in judicial branch education relating to domestic violence, sexual assault, stalking, teen dating violence, human trafficking, and elder abuse issues;
- Increase communication among courts about best practices in domestic violence, sexual assault, stalking, teen dating violence, human trafficking, and elder abuse cases;
- Provide jurisdiction-specific technical assistance on domestic violence, sexual assault, stalking, teen dating violence, human trafficking, and elder abuse issues of greatest importance to local courts;
- Create educational tools that aid in the administration of justice for self-represented litigants in domestic violence cases;
- Purchase computer or audio visual equipment for court-specific domestic violence-related projects; and
- Support efforts to enhance access to and improve the administration of justice for Native American victims of domestic violence, sexual assault, stalking, teen dating violence, human trafficking, and elder abuse.

Judicial Education on Domestic Violence

Effective January 1, 2010, the Judicial Council adopted rule 10.464 of the California Rules of Courts to provide for education on domestic violence for judges, commissioners, and referees. The rule:

- Requires participation in appropriate education on domestic violence issues by each judicial officer who hears matters in criminal, family, juvenile delinquency, juvenile dependency, or probate court, and in addition, for those with primary assignments in these areas, participation in periodic updates; and
- Requires inclusion of domestic violence issues in courses at the Judicial College and in primary assignment courses for both new and experienced judicial officers.

The VAWEP project provides live statewide programs, local programs, and distance-learning opportunities so that judges, commissioners, and referees have diverse ways to fulfill the requirement of the rule.

The forum makes recommendations to the project's planning committee about content on federal Indian law and its impact on state courts. To promote the collaboration between the project's planning committee and the forum, a tribal judge, who is a forum member, serves as liaison between the two groups.

Educational Events and Technical Assistance

Judicial Institutes (November 2012 and April 2013)

VAWEP courses are included as part of the Juvenile Law Institute in November 2012, the Family Law Institute in May 2013, and the Cow County Judges Institute in June 2013. In conjunction with the Family Law Institute, a Statewide Family Dispute Resolution Conference is also held to allow family law judicial officer and family court services mediators and evaluators to attend joint sessions. These institute trainings and educational events provide information specific to target audiences.

Juvenile Law Institute, November 2012

The Juvenile Law Institute is designed to meet the needs of judicial officers new to a juvenile law assignment, and those with greater experience. A description of the workshop follows:

Domestic Minor Sex Trafficking of Dependent/Delinquent Youth

Faculty will focus on the unique features of commercially sexually exploited children (CSEC) who may appear in both dependency and delinquency

proceedings and highlight characteristics of victims, perpetrators, dynamics, and risk factors. The workshop will also address broad goals of services and treatment for exploited children and the increasing need for court leadership in this critical area.

Family Law Institute/Family Dispute Resolution (FDR) Statewide, May 2013

The Family Law Institute is held in conjunction with the Family Dispute Resolution Statewide Conference (FDR) to provide an opportunity for judicial officers and family court services mediators and evaluators to jointly attend courses. A series of workshops for this audience will be presented at the institute.

Cow County Judges Institute, June 2013

The Cow County Judges Institute provides an opportunity to present courses to rural judges in an environment that allows for discussion of substantive and procedural law and their unique features in a rural setting.

Primary Assignment Orientation Courses, Criminal Assignment Courses, and other Related Events

VAWEP develops, staffs, and sponsors a series of in-depth courses on domestic violence, sexual assault, stalking, teen dating violence, and elder abuse issues that are integrated into these showcase programs of CJER.

Primary Assignment Orientation Courses

CJER offers week-long programs in family law, juvenile law, criminal law, and probate designed for judicial officers new to the relevant assignment. The Primary Assignment Orientation courses are designed to satisfy the content-based requirements of rule 10.462(c)(1)(B) of the California Rules of Court applicable to new judges and subordinate judicial officers. The courses also satisfy the expectations and requirements of Rule 10.462(c)(4) applicable to experienced judges and subordinate judicial officers new to, or returning to, an assignment. The VAWEP project has developed components on domestic violence issues for each of these programs. Generally the Family Law Primary Assignment Orientation includes components on the effects of domestic violence on children and an overview of domestic violence law. The Criminal Law Primary Assignment Orientation includes a segment on criminal procedure in domestic violence cases. The Juvenile Law Primary Assignment Orientation includes a course on the effects of domestic violence on children in dependency and delinquency proceedings. The Probate Law Primary Assignment

Orientation offers a segment on civil protective orders for elderly and dependent adults. The following orientation courses are offered during the grant cycle:

February 2013	Criminal Law Primary Assignment Orientation Family Law Primary Assignment Orientation Probate Law Primary Assignment Orientation Juvenile Law Primary Assignment Orientation (Delinquency) San Francisco
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June 2013	Criminal Law Primary Assignment Orientation Family Law Primary Assignment Orientation San Francisco
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September 2013	Criminal Law Primary Assignment Orientation Family Law Primary Assignment Orientation Juvenile Dependency Primary Assignment Orientation Probate Law Primary Assignment Orientation
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Continuing Judicial Education: Criminal Assignment Courses

CJER develops and implements programming designed to satisfy the content-based expectations of California Rules of Court, rule 10.462(c)(4) for experienced judges returning to a criminal assignment and to others seeking hours-based continuing education under rule 10.452(d). The following course will be offered during the grant cycle:

April 2013	Handling Sexual Assault Cases San Francisco
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Ethics and Self-Represented Litigants in Domestic Violence Cases (January 2013)

This 1.5-day course focuses on general judicial ethics issues that arise in domestic violence cases such as disqualification, disclosure, ex parte communication, community outreach, interjurisdictional issues relating to recognition and enforcement of tribal protective orders, as well as application of the canons of ethics in the context of the increasing numbers of self-represented litigants in domestic violence cases. The course provides an opportunity to demonstrate and practice demeanor and communications skills during a videotaping and feedback session. A workshop on the nuts and bolts of California law relating to restraining and protective orders precedes the course.

Human Trafficking: Issues for Criminal and Juvenile Law Judges (February 2013)

The project will offer a course focusing on how trafficking victims appear in juvenile and criminal courts as dependents, delinquents, defendants, and witnesses. The course will explore how people become victims of commercial sexual exploitation, and the unique dynamics, characteristics, and risk factors of this population. It will also address the legal definitions of human trafficking, and the many cross-over issues that must be grappled with when they appear before criminal or juvenile court judges.

Assigned Judges Criminal Sentencing (February, 2013)

At the request of presiding judges and justices of the trial and appellate courts, the Chief Justice issues temporary judicial assignment orders to active or retired judges to cover vacancies, illnesses, disqualifications, and calendar congestion in the courts. Various training programs are held through-out the year training judges participating in the Assigned Judges Program. The upcoming training will include an overview of unique probation and sentencing considerations in domestic violence cases including the mandatory provisions of Penal Code section 1203.097, the law regarding issuance of criminal protective orders, and firearms restrictions and relinquishment procedures.

Handling Elder Abuse Issues (June 2013)

Elder abuse cases can arise in virtually any department of the superior court. This 2.5-day course, developed in partnership with CJER, helps the judicial officer become familiar with elder abuse in its various court settings and highlights the relevant underlying law and procedure. The course helps participants gain an awareness and understanding of the dynamics of elder abuse cases, the needs of the victim and appropriate accommodations, and myths and misconceptions about elder abuse victims and offenders.

Forum on Dependency and Domestic Violence (July/August 2013)

Dependency proceedings involving children of domestic violence victims can be problematic, and there appears to be variable practices that govern when these children are adjudicated as dependents and under what circumstances. These variable standards may adversely impact domestic violence victims who fear reporting incidents of domestic violence if they risk initiation of dependency proceedings by Child Protective Services. The project will convene an invitational forum to discuss emerging best practices in this area. A report from the forum will be drafted and distributed online via the password protected judicial website.

Domestic Violence Awareness, Judicial College (August 2013)

A course on issues of domestic violence is part of the nationally recognized B. E. Witkin Judicial College of California, a program providing comprehensive education for all new superior court judges, commissioners, and referees. The course provides background information on domestic violence and is mandatory for all program participants. A description of the course follows:

Domestic Violence Awareness. This course provides a general understanding not only of the “nuts and bolts” of domestic violence laws, but also of the dynamics of domestic violence. The course emphasizes laws uniquely applicable in domestic violence trials; the mechanics of issuing, modifying, and terminating criminal and civil restraining orders; and practical problems that arise in sentencing in domestic violence cases.

Domestic Violence Safety Partnership Program (Ongoing in 2012-2013)

Under the auspices of the Domestic Violence Safety Partnership (DVSP) project, VAWEP provides targeted, local technical assistance to applicant courts that have an identified need for training. DVSP distributes a self-assessment tool that enumerates required procedures and recommended practices and provides training and technical assistance based on the issues identified. In the past, VAWEP has received many requests from courts about specific information needs, which can range from understanding warning signs for lethality in domestic violence cases to improving communication between the many types of courts that may be involved in a particular case. To date, DVSP has provided to trial courts more than 84 instances of technical assistance or local educational support.

The project provides experts whose specialties vary based on the need of the specific court. This assistance is accomplished by delivering a substantive expert to speak to the issues at hand, providing speakers at AOC trainings with expertise in issues related to violence against women, or facilitating a peer-mentoring meeting in which courts come together to learn about individual best practices. Recipients of this assistance are asked to evaluate what they have received. Assistance can also include purchasing audio visual and technological equipment on the court’s behalf that the court may use to enhance the administration of justice in domestic violence and related cases.

Collaboration with the AOC’s Education Division on Local Training and Distance Learning

The project continues to join with the Office of Education/CJER to offer local judicial education on domestic violence, sexual assault, stalking, teen dating violence,

human trafficking, and elder abuse. In 2010, the Office of Education/CJER launched a new initiative to enhance the ability of local courts to provide high-quality judicial education for bench officers. Courts can locally host judicial education classes simply by selecting the course from the course catalog. The courses range in duration from 1.5 to 3 hours. Local education minimizes time away from the bench and eliminates most travel expenses. The catalog currently contains twenty-two domestic violence related courses, including the following titles:

- Handling Elder Abuse Issues
- Restraining Orders in Elder Abuse Cases
- Adjudication of Stalking Cases
- Stalking in Cyberspace: What a Judge Needs to Know
- Batterer Intervention Programs: What We Know and What We Need to Know
- Beyond the Basics: An Overview of Domestic Violence Cases and Protective Orders
- Domestic Violence and Ethics
- Domestic Violence and Fairness Issues
- Evaluating the Effects of Domestic Violence on Children
- Immigration Issues in Criminal Domestic Violence Cases
- Restraining Orders in Multiple Court Settings
- Assessing Dangerousness in Criminal Domestic Violence Cases
- Domestic Violence and Custody—Assessing the Risk
- Domestic Violence Issues in Family Law Cases
- Domestic Violence Issues in Juvenile Cases
- Ethics and Self-Represented Litigants in Domestic Violence Cases
- Handling Sexual Assault Cases
- Reasonable Efforts in Dependency Cases Involving Domestic Violence
- Science of Aging
- Stalking Cases and Court Security

An additional course titled Domestic Violence and Tribal Communities-/Cross Jurisdictional Issues is under development for the current grant year.

Develop and Deliver Distance Learning Opportunities (Ongoing in 2012-2013)

The project will deliver at least two instances of distance learning training, using web-based, DVD, broadcast, or other distance learning delivery methods including judicial tool kits and check lists using content from either prior live trainings or newly created content. One distance learning activity will focus on handling sexual assault cases for criminal law judges.

Curriculum Development and Publications

VAWEP distributes the following curricula, publications, and other resource materials:

***New* -Judges Guide on Handling Elder Abuse Cases (Ongoing in 2012-2013)**

The project plans to publish and post on-line three modules of a stand-alone bench guide for judges on elder abuse cases, based on an outline completed during the last grant year. The modules will explain the legal issues related to elder abuse and will help judicial officers make effective and appropriate orders and decisions in these cases. The bench guide will prove especially helpful because the law in this area is particularly complex and judicial officers have noted a need for more information in this area.

Domestic Violence Website Map

The Administrative Office of the Courts maintains a password protected Web site for judicial officers and court professionals. Materials about domestic violence and related topics are posted in many different components of the site. The project is developing a site map on violence-related topics which will serve as a portal and index for the users. The map, organized by case type, can be posted on a user's desktop and provide a quick reference for the busy jurist or court manager.

Annual Report and Fact Sheet

Project staff develops an updated annual report and this fact sheet to highlight key efforts the project has undertaken as well as judicial and court responses to those efforts. These documents are distributed to provide project information to judicial branch professionals and the public. As educational tools, they focus on suggested practices and innovative approaches.

Tribal/State Activities

In response to the Tribal Court/State Court Forum's (forum) recommendations to the AOC to revise judicial benchguides and incorporate into judicial educational programming information regarding Federal Indian law and the interjurisdictional issues that face tribal and state courts, the AOC, with grant funding develops curriculum, provides education, and offers technical assistance to local courts on Federal Indian law as it applies to domestic violence cases.

Cross-court Educational Exchanges for State and Tribal Judges (Ongoing in 2012-2013)

The project plans to continue the dialogue started as part of the Native American Communities Justice Project (NACJP) by conducting three cross-court educational exchanges. The exchanges will be judicially led by the host judges (one tribal court judge and one state court judge) and will take place on tribal lands. At the exchanges, judges will utilize a checklist of problems and solutions identified by the NACJP participants to discuss local court concerns relating to domestic violence and/or elder abuse that they can solve together.

Integrate Federal Indian Law on Domestic Violence Into Existing Judicial Educational (Ongoing in 2012-2013)

The project will develop course content on federal Indian law and domestic violence and incorporate the new content into two courses: (1) Ethics and Self Represented Litigants in Domestic Violence Cases and (2) Domestic Violence Institute for 2014. The project will review all relevant CJER courses and recommend that the new course content be incorporated into at least two identified courses.

Retool Existing Curriculum and Materials relating to P.L. 280 and Family Violence (Ongoing in 2012 2013)

The project plans to review the judicial educational resources in the existing toolkits maintained by CJER and identify new resources on federal Indian law and domestic violence that can be assembled into a toolkit for judges and posted as part of the domestic violence website map.

Further Information

For additional information about VAWEP activities, please contact:

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Violence Against Women Education Project

ANNUAL REPORT

October 1, 2011–September 30, 2012



**ADMINISTRATIVE OFFICE
OF THE COURTS**

CENTER FOR FAMILIES, CHILDREN
& THE COURTS

This publication was supported by Grant No. CW 12111535 from the California Emergency Management Agency (Cal EMA). The points of view, opinions, findings, conclusions, and recommendations expressed in this publication are those of the author and do not necessarily represent the official position or policies of the Cal EMA. Cal EMA reserves a royalty-free, nonexclusive, and irrevocable license to reproduce, publish, and use materials and to authorize others to do so.

Violence Against Women Education Project

ANNUAL REPORT October 1, 2011–September 30, 2012

**Judicial Council of California
Administrative Office of the Courts
January 2013**

ABOUT THIS PROJECT

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Project Mission

The mission of the Violence Against Women Education Project is to enhance the court's response to domestic violence, sexual assault, stalking, teen dating violence, elder abuse, and human trafficking issues through the following activities:

- Identify primary educational and informational needs of the courts on domestic violence, sexual assault, stalking, teen dating violence, and elder abuse issues;
- Initiate new judicial branch educational programming pertaining to domestic violence, sexual assault, stalking, teen dating violence, and elder abuse including the delivery of regional training events and enhancing existing programming;
- Develop online courses for judicial officers and court staff relating to court procedure and policy in the areas of domestic violence, sexual assault, stalking, teen dating violence, and elder abuse;
- Develop and compile useful information for the courts on domestic violence, sexual assault, stalking, teen dating violence, and elder abuse issues that relates specifically to California law;
- Institutionalize inclusion of domestic violence, sexual assault, stalking, teen dating violence, and elder abuse issues in all relevant judicial branch education curricula, programs, and publications;
- Create incentives designed to increase attendance and participation in judicial branch education relating to domestic violence, sexual assault, stalking; teen dating violence, human trafficking, and elder abuse;
- Increase communication among courts about best practices in domestic violence, sexual assault, stalking, teen dating violence, and elder abuse cases;
- Provide jurisdiction-specific technical assistance on domestic violence, sexual assault, stalking, teen dating violence, elder abuse issues, and human trafficking issues of the greatest importance to local courts;
- Create educational tools that aid in the administration of justice for self-represented litigants in domestic violence cases;
- Purchase computer or audiovisual equipment for court-specific domestic violence–related projects; and
- Enhance access to and improve the administration of justice for Native American victims of domestic violence, sexual assault, stalking, teen dating violence, and elder abuse.

Education in Domestic Violence, Sexual Assault, Stalking, Teen Dating Violence, Elder Abuse Cases, and Human Trafficking: A Critical Need

Many of California's state and tribal court judicial officers, whether they hear criminal cases, restraining order proceedings, juvenile dependency cases alleging violence, teen dating violence delinquency cases, or family law cases involving contested divorce and custody arrangements, are at some point likely to encounter issues related to domestic violence, sexual assault, stalking, teen dating violence, elder abuse, and human trafficking. These types of cases differ from others in that they appear in a variety of court contexts and departments. Judges in any assignment or jurisdiction can benefit from a working knowledge of the unique issues that these cases pose, while judicial officers presiding over specialized courts (such as criminal domestic violence or Domestic Violence Prevention Act courts) need continuing, relevant, and advanced information and resources.

Other court professionals play a critical role in ensuring access to the courts for the parties in these cases. From the counter clerk who may be the first representative of the court system to assist a victim of domestic violence, to the bailiff or court attendant in the courtroom who performs crucial safety functions, to the document examiner who ensures that legal requirements are met—all work together to help administer these cases. Each court professional needs essential job-related information: an understanding of the law and procedure underlying these cases, knowledge about the dynamics of domestic violence, a grounding in the basic principles of public service and safety, and information about how to reduce the stress of functioning in this difficult area.

Thus, ongoing and pertinent education for judicial officers and other judicial branch professionals is critically important to the fair and efficient administration of justice in these unique cases. The Violence Against Women Education Project (VAWEP) is an initiative designed to meet this need. VAWEP is a project of the Administrative Office of the Courts (AOC), Center for Families, Children & the Courts (CFCC). VAWEP provides to the tribal and state courts information, educational materials, training, and technical assistance on the role of the courts in responding to domestic violence, sexual assault, stalking, teen dating violence, elder abuse, and human trafficking cases in family, civil, criminal, and juvenile state and tribal courts in California. VAWEP also assists local courts in developing education, policy, and promising practices and provides for the purchase of computer or audio visual equipment to improve the handling of cases involving domestic violence. VAWEP continually assesses the greatest information and training needs of the courts and designs programs responsive to those needs.

FUNDING INFORMATION

This year marked the tenth year of the VAWEP initiative. The project is funded by the California Emergency Management Agency (Cal EMA) with resources from the federal Office on Violence Against Women (OVW) STOP (Services • Training • Officers • Prosecutors) grant program. (See the appendix, on page 26, for a description of the STOP purpose areas.)

Each state is required to allocate 5 percent of its annual STOP grant funding to support the courts in creating a more effective response to domestic violence, sexual assault, stalking, teen dating violence, elder abuse, and human trafficking cases. The project received \$541,336 in funding from OVW and Cal EMA that allowed the Administrative Office of the Courts to continue and enhance its efforts to educate and inform judicial officers and court staff about domestic violence, sexual assault, stalking, teen dating violence, elder abuse, and human trafficking issues, and to address the needs of Native American communities in the area of family violence.

Review of VAWEP Activities: October 1, 2012–September 30, 2013

In an effort to meet the project's goals and comply with the program purpose areas set forth by the Office on Violence Against Women, VAWEP staff and planning committee members undertook activities in three major areas: the delivery of educational events; the distribution of technical assistance to local trial courts and regions; and the development of teaching materials, resources, and publications. A brief summary of each of these activities is provided in the following pages.

EDUCATIONAL EVENTS

Since the project's inception in 2002, more than 18,092 attendees have participated in VAWEP-sponsored training events and forums. VAWEP participants are primarily judges, commissioners, referees, and court staff. Some programs also involve justice system professionals such as attorneys, mental health providers, law enforcement officers, and advocates. In an ongoing effort to respond to the needs of the Native American community, participants included tribal judges and Native American advocates, service providers, and community leaders. A description of the VAWEP educational events held during this grant year follows.

Beyond the Bench 2011 – Coming of Age in Tough Times: Building Our Strength Together (December 2011)

The Beyond the Bench Conference celebrated its 21st year, and more than 1300 participants attended. The conference provided a forum for multi-disciplinary dialogue about improving outcomes for children and families. The program has grown over the years to provide courses that address a myriad of family issues, and has branched out to include family courts, collaborative courts, and case types, including family violence, self represented litigants, mental health, substance abuse, supervised visitation, gangs, and collaborative justice. Twelve domestic violence-related courses were offered as follows:

Family Law Domestic Violence: New Forms, Rules and Cases

Panelists for this workshop highlighted major changes to forms and rules, new legislation, and key new cases. New forms and rules related to domestic violence restraining orders, effective January 1, 2012, included a new form and rule for parties to stipulate to parentage. Restraining order forms issued in juvenile, civil harassment, elder abuse and other case types were also revised. The workshop was attended by 56 participants.

The Importance of Domestic Violence Coordinating Councils

In today's environment of limited resources, developing and maintaining lines of communication among members of the community, community-based services, advocates, justice system entities, and the courts is crucial to fostering victim safety, perpetrator accountability, and child well-being when domestic violence is a factor. This workshop focused on how to set up a viable domestic violence council, delineated the advantages and some of the pitfalls, and provided concrete examples of the benefits of flourishing domestic violence councils to large and small communities. It also emphasized the vital role of the court in sustaining a successful council. The workshop was attended by 23 participants.

Lesbian, Gay, Bisexual, and Transgender (LGBT) Domestic Violence: What You Need to Know

Domestic violence among same-sex couples is just as prevalent as among opposite-sex couples, but unique dynamics have resulted in invisibility and the potential for further victimization by the legal process. This workshop examined domestic violence in the LGBT community and included an overview of demographic information, terminology, and specific domestic violence information. Faculty used a scenario to examine batterers' tactics from an LGBT framework and discussed challenges the court system may face when presented with cases of LGBT domestic violence. The workshop was attended by 55 participants.

Human Trafficking: An Overview and Special Focus on Commercially Sexually Exploited Children (CSEC)

This workshop provided a brief overview of the legal and social science definitions of human trafficking and where it might arise in a court setting. Faculty focused on the unique features of commercially sexually exploited children (CSEC) and highlighted characteristics of victims, perpetrators, dynamics, and risk factors. The workshop also addressed broad goals of services and treatment for exploited children and the increasing need for court leadership in this critical area. The workshop was attended by 107 participants.

System Change to Address Children's Exposure to Violence

This workshop showcased the latest policy recommendations for multiple systems, intersecting with dependency courts that engage with children exposed to domestic violence to help them heal and remain or reunite with their families. Drawing on the research and recommendations of the California Leadership Group on Domestic Violence and Child Wellbeing, the panel highlighted practical activities within and across systems and communities that significantly aid in this process. Panelists also offered prevention and early intervention approaches. The workshop was attended by 34 participants.

Family Law Settlement Services: Developing Protocols for Domestic Violence Cases

Many family law cases benefit from the opportunity to use settlement services to craft resolutions addressing property and financial matters. Given the number of family law cases involving domestic violence allegations, restraining orders, or unreported fear of abuse or retaliation, how can settlement service providers most effectively ensure that programs take safety into account? This workshop provided participants with examples of protocols and procedures for handling this issue in non-child custody programs and discussed why it is important to consider domestic violence when providing settlement services. The workshop was attended by 34 participants.

Recognition and Enforcement of Tribal Protective Orders

Providing for the justice needs of tribal communities is a challenge. One way that tribes seek to meet this challenge is by developing their own court systems. Today there are over twenty tribal courts operating in California. A priority for many of these courts is the development of tribal domestic violence codes to ensure the safety of their citizens. In this workshop, tribal and state court judges discussed jurisdiction on tribal lands and in tribal court, federal and state law concerning enforcement and recognition of tribal court protective orders, existing procedures for the mutual recognition and enforcement of protective orders, and proposed changes to the California Rules of Court to ensure entry of tribal protective orders in the California Law Enforcement Telecommunications System (CLETS). The workshop was attended by 26 participants.

New Developments in the Intersection of Housing, Domestic Violence, and Family Law

This workshop discussed family law and housing law strategies that can be used to address some of the most common housing issues domestic violence survivors encounter. It showcased a variety of tools to protect survivors' housing rights, eviction defense, early lease termination, and lock changes for survivors. The workshop also reviewed the Violence Against Women Act, fair housing laws, Domestic Violence Prevention Act, family law, civil code, and collaborative community support. The workshop was attended by 24 participants.

Working with Domestic Violence Survivors Aged 25 and Under

This session provided information on working with domestic and dating violence survivors aged 25 and under. Current brain research confirms what youth advocates have been saying for years – our brains are not fully developed when we turn 18. So what can attorneys who work with clients aged 18-25 learn from youth advocates? Participants were provided with developmentally appropriate tips for working with these clients. The workshop also reviewed available legal rights and remedies for domestic and dating violence survivors who are still legally minors. The workshop was attended by 26 participants.

Representing Same-Sex Couples in Dissolution and Domestic Violence Proceedings

This interactive workshop followed the full process of representing a survivor of intimate partner violence in the dissolution of his or her domestic partnership or marriage, from intake and an initial restraining order to a judgment of dissolution. The case study involved many issues that can arise in these cases, including determinations of parentage, preservation of eligibility for public housing and other benefits, and federal tax implications of property division and support. The workshop was attended by 26 participants.

Legal Update: New Rules and Forms for Family Law and Domestic Violence

This lunchtime plenary session focused on legislative changes, revisions to rules and forms effective January 1, 2012, and case law in 2011 relating to family law and domestic violence. The plenary session was attended by 70 participants.

Effective Responses to Abusers Using Legal Systems Against Victims of Domestic Violence

This workshop considered how legal professionals can improve their ability to respond to tactics abusers employ within the legal system to perpetuate abuse against victims of domestic violence. The panel presented a variety of methods being used against victims, such as filing baseless restraining order requests and ex parte requests alleging kidnapping, calling the police on the victim, filing non-stop custody requests, and attempting to prejudice the judge by claiming that the victim is only seeking a restraining order for immigration purposes. The workshop was attended by 30 participants.

Continuing Judicial Education: Primary Assignment Orientation Program and Criminal Assignment Courses (January, March, June, and September 2012)

This section includes courses held within the Primary Assignment Orientation programs and a series of courses held within the Criminal Assignment Courses program. The Primary Assignment Orientations are week-long programs offered to new or newly assigned judicial officers and include courses in family law, criminal law, juvenile dependency, juvenile delinquency and probate. A series of eleven domestic-violence related courses were held as part of the Primary Assignment Orientations. The Criminal Assignment Courses are often held in conjunction with the Primary Assignment Orientations but are typically one-to-three days in duration and focus specifically on criminal issues.

Family Law Primary Assignment Orientation Programs (January, June, and September 2012)

Each week-long Family Law Primary Assignments Orientation contained two components on domestic violence. These components were entitled *Domestic Violence Laws* and *The Effects of Domestic Violence on Children*. Thirty-six judicial officers attended the January program, ten judicial officers attended the June program, and fifteen attended the September program. These components included topics that focused on the effects of domestic violence on children, outcomes for children exposed to domestic violence, domestic violence law and custody issues. A sample of the comments received from these programs follows.

[As a result of this program] I will pay attention to custody orders in domestic violence cases. I will be careful when crafting orders to avoid creating problems in carrying out the orders.

[The instructors were] very knowledgeable and the hypos helped with [the] learning experience.

[As a result of the program] I will let parties be heard at the initial application if perpetrator is present.

The lethality factors from Dr. Lund [were] very helpful.

[As a result of the course] I will spend more time with files before the hearing.

Great instructors, very knowledgeable with great delivery.

This class has taught me to ask more questions, think of more possibilities in both assessing a situation and devising court orders.

[The most beneficial part of the course] was addressing the law and procedure along with the psychological aspects of domestic violence.

Criminal Law Primary Assignment Orientation Programs (January, June, and September 2012)

Each Criminal Law Primary Assignment Orientation program contained a segment that focused on issues unique to domestic violence cases in the criminal law area. Thirty-three participants attended the January program, eighteen participants attended the June program, and fifteen participants attended the September program. Sample comments follow:

I will incorporate the ideas and best practices presented.

[The program] was an excellent source of information.

[The program] gave good tools that help judges be more proactive in domestic violence cases. Also nice to have a male instructor on domestic violence

The presenter was excellent; highly knowledgeable; very effective at communication; well organized and had great demeanor.

An excellent overview with emphasis on key situations about which any judge should be aware; great hypotheticals.

Juvenile Delinquency Primary Assignment Orientation Program (January 2012)

A course entitled *The Impact of Domestic Violence in Juvenile Delinquency Proceedings* was offered at the Juvenile Delinquency Primary Assignment Orientation in January 2012. The program was attended by 25 judicial officers. A sample of comments follows.

The trauma chart was very helpful.

[As a result of the course] I will include in my disposition plans additional services for kids with domestic violence backgrounds.

Very helpful to have the neuro-physical aspect and how it effects our children.

Dr. Rowe's discussion on the latest findings in the literature as to the "how" and "why" of damage due to domestic violence was great.

Juvenile Dependency Primary Assignment Orientation Program (September 2012)

A course entitled *The Impact of Domestic Violence on Children* was held at the Juvenile Law Dependency Primary Assignment Orientation Program in September 2012. The dependency program was attended by 23 judicial officers. A sample of the comments follows.

[The] video was terrific. Judge Isackson is also great on this topic. She clearly has a good knowledge of this topic

[As a result of the course, I will] be more sensitive to the behavior of a child, not because it's his or her fault but how it's a universal development issue.

The video had lots of good information regarding the impact of domestic violence on children.

Probate Primary Assignment Orientation Program (January 2012)

A course entitled *Civil Protective Orders for Elderly and Dependent Adults* was offered at the Probate Primary Assignment Orientation Program in January 2012. The evaluations contained the following comments:

Learning the different options available under domestic violence protective orders versus elder protective orders [was very beneficial].

Great exercise – really brought the victims perspective and options into the discussions.

Very interesting program. Great instructor!

Criminal Assignment Courses

Handling Sexual Assault Cases (March 2012)

Sexual assault cases require the judge to be familiar with a unique body of substantive and procedural law that is not necessarily applicable in other criminal cases. The judge must also be aware of and understand the dynamics of sexual assault cases, the needs of the victim and specially mandated accommodations, and myths and misconceptions about sexual assault victims and offenders. This two-day course emphasized these key issues and guided the judge through managing a sexual assault trial from arraignment through sentencing and post-sentencing procedures. This course was attended by 15 participants. A sample of the comments received from the course follows.

Excellent survey of the law. Very practical approach [to the program] with good examples. Very engaging [and I] learned from the instructors and fellow judges. Excellent discussions.

[As a result of attending the program, I will] be more aware of pitfalls pointed out in the course.

Excellent presentation and excellent handouts/notebooks by Judge Couzens.

Selected Issues in Criminal Domestic Violence Cases: Criminal Procedure from Arraignment through Sentencing (June 2012)

This course provided a comprehensive overview of the law applicable in misdemeanor and felony domestic violence criminal cases. Working through a hypothetical case file, participants discussed, among other things, assessment of a defendant's future dangerousness (for use in setting bail and issuing protective orders); reluctant witnesses; unique jury selection issues that arise in these cases; and the mandatory probationary requirements in such cases. The goal of the course was to provide bench officers with tools to handle a criminal domestic violence case from the arraignment stage through supervision on probation. The course was attended by 18 participants. A sample of comments received from the course follows.

Enjoyed hearing different procedures in different counties, i.e., learned from my colleagues

The instructor was very thorough and thought provoking on rules of evidence.

Great instructors; best class I've attended in years! Instructors were well prepared.

One of the more informative and beneficial courses I have taken. The instructors did a great job.

Judicial Institutes (February and June 2012)

Judicial institutes target specific judicial audiences, either judges from rural areas or judges assigned to hear specific case types, such as family, juvenile, or criminal law. The project sponsored programs at the Criminal Law Institute in February and the Cow County Judges Institute in June.

Criminal Law Institute (February 2012)

In criminal domestic violence proceedings, protective orders are often issued pretrial, and issuance of a protective order is required at the time of sentencing for probation. A workshop entitled *CPO'S and Enhancing Victim Safety in the Criminal Courts* was offered at the Criminal Law Institute and focused on ways to craft effective protective orders that include all mandatory provisions, examined various issues about other related case types, and delineated recommended practices for reviewing requests for modifications. The workshop also highlighted firearms restrictions and relinquishment provisions now required by California Rules of Court, rule 4.700. The workshop was attended by 18 participants. A sample of comments received from the workshop follows.

[In the future, I will] be more aware of the need to issue restraining orders.

[As a result of the class] I will inquire further before issuing a criminal protective order.

The entire program was good – Relevant case law, information cards and suggestions and tips.

Cow County Judges Institute (June 2012)

A workshop entitled *Criminal Elder Abuse* and a plenary session entitled *Lethality and Dangerousness in Domestic Violence Cases* with a special focus on victims in tribal communities were offered during the Cow County Judges Institute. The Cow County Judges Institute is a unique opportunity to present courses to rural judges in an environment that allows for discussion of substantive and procedural law and their unique features in a rural setting.

Criminal Elder Abuse

This workshop covered criminal law selected issues in elder abuse cases, including behaviors that fall within Penal Code section 368 and domestic violence under Penal Code section 273.5. Faculty also focused on criminal protective orders, pre-trial release, evidentiary issues, victim protections, sentencing considerations, and probation review hearings in the context of elder abuse cases. Thirty-one participants attended the workshop and offered the following comment:

The instructors had very practical and actual experience in the subject matter so they were able to provide insightful suggestions to address the issue in elder abuse cases.

Lethality and Dangerousness in Domestic Violence Cases

In this plenary session, Dr. Jacquelyn C. Campbell, a nationally recognized expert on lethality and dangerousness in domestic violence cases, presented an overview of her extensive research. Dr. Campbell delineated a series of risk factors associated with lethality and dangerousness, and provided insights into the practical implications of these factors for judicial decision-making in domestic violence cases in both state and tribal courts.

Good information regarding the assessment tools and ideas regarding resources need to be focused especially after criminal realignment.

[The course provided] interesting information regarding tribal courts. I liked the assessment tool which I was aware of from Dr. Campbell's lecture.

Ethics and Self-Represented Litigants in Domestic Violence Cases (March 2012)

The course began with a half-day segment on the “nuts and bolts” of restraining and protective order proceedings. The remainder of the course focused on general judicial ethics issues that arise in domestic violence cases such as disqualification, disclosure, ex parte communication, and community outreach, as well as application of the ethical canons in the context of increased numbers of self-represented litigants in domestic violence cases. The course also provided an opportunity for participants to demonstrate and practice demeanor and communication skills during a taping and feedback session. Twenty judicial officers attended the course and offered the following representative comments:

Being with other judicial officers [was a benefit to attending this course]. I learned so much from just listening to them, their questions, and their comments. The faculty was very well prepared.

[I will] try to be understanding of self represented litigants' position in court.

[A helpful part of this course was being able to] talk through difficult situations and legal realities while obtaining feedback from classmates and instructors.

Domestic Violence Judicial Institute (May 2012)

This judicial education program is based on a national interdisciplinary curriculum developed by the National Council of Juvenile and Family Court Judges and Futures Without Violence. The three-day program included workshops on fact-finding, fairness, and cultural issues in domestic violence cases, decision-making skills and enforcement, victim behavior, and perpetrator behavior. The program also included

sessions designed to engage judicial officers in practical courtroom exercises addressing the complexity of domestic violence cases as well as specific issues facing California judicial officers. Fifty participants attended the program.

The project also offered a preinstitute workshop to address the “nuts and bolts” of California law in domestic violence cases. The preinstitute workshop provided participants with the basics of domestic violence cases, focusing on common errors, unique features, and “hot spots.” Issues arising in criminal domestic violence cases included emergency protective orders, pretrial release and bail, criminal protective orders issued both pretrial and as a mandatory condition of probation, sentencing, review hearings, and probation violations. Issues related to family law included statutory requirements for restraining orders, firearms issues, and cross-over issues such as avoiding conflicting orders. Sixty-five participants attended the preinstitute workshop.

The institute and preinstitute received excellent evaluations. The evaluations from both programs included the following comments from participants:

Judge Dugan’s knowledge in this area is excellent and her teaching style is fantastic. Overall—very engaging and helpful course.

[As a result of taking this course, in the future, I will] take more time to review the forms. I will have a hearing on the record when I have questions about the information on the forms.

I can't tell you how valuable the Domestic Violence Institute was for me. As a relatively new judge (17 months on the job) with a civil background, and a relatively new domestic violence assignment (criminal for four months), every session provided me with new, mind-expanding information and skills. Yes, it will make me a much more effective judge. But the Institute provides much, much more than that. It provides a perspective, a feeling of community among other judges, and an appreciation for the need to coordinate with the family and dependency courts are just a few of the outstanding aspects of the program.

A tribal court judge reported it was the best conference she ever attended, and as a result she obtained permission from the tribes that her court serves to volunteer on the VAWEP Planning Committee to assist with the development of curriculum relating to tribal/state court domestic violence issues for the next Domestic Violence Judicial Institute scheduled for 2014.

B. E. Witkin Judicial College of California (August 2012)

The B. E. Witkin Judicial College of California is a nationally recognized program providing comprehensive education to all new superior court judges, commissioners, and referees. Each participant is required to take a mandatory domestic violence course entitled *Domestic Violence Awareness*. The course provided information on the “nuts and bolts” of domestic violence laws and the dynamics of domestic violence. Faculty also focused on laws uniquely applicable in a domestic violence trial; mastery of the mechanics of issuing, modifying, and terminating criminal and civil restraining orders in domestic violence cases; practical problems that arise in domestic violence cases; and sentencing appropriately in criminal cases. All program participants attended this mandatory course, for a total of 55 participants. A selection of comments follows.

Great materials, including sample forms and checklists; very knowledgeable instructors; good coverage of topics.

I learned about some nuances I was not previously aware of.

I liked the tripartite format of juvenile, family law and criminal. It was very helpful to understand the interplay between the three case types.

DOMESTIC VIOLENCE SAFETY PARTNERSHIP (DVSP)

Technical assistance and local training are provided through the Domestic Violence Safety Partnership (DVSP) project (October 2011–September 2012). The DVSP project was developed to enhance safety and to improve practices and protocols in the handling of domestic violence cases by offering advice, hands-on technical assistance, a speakers’ bureau/peer mentoring program, and local education and training. The project also permits the procurement of computer and audiovisual equipment used in the handling of domestic violence cases. Trial courts participate in the program by completing the DVSP self-assessment tool. This tool consists of legal mandates and other safety considerations relating to domestic violence cases and, in particular, the handling of restraining orders. The assessment helps courts identify areas in which technical assistance or training may be most beneficial. Staff of the Administrative Office of the Courts (AOC) then provides educational opportunities or technical assistance at the court’s request. Although courts are strongly encouraged to complete the self-assessment tool, participation in this part of the program is voluntary and not a prerequisite for obtaining assistance under this program. Courts that do complete the tool are given priority. The courts that have completed the assessment have found it useful in identifying areas where training and technical assistance are needed.

The project provided 7 instances of assistance to the trial courts and AOC divisions or regional offices. A list of the programs provided under DVSP follows.

Superior Court of Inyo County

The project sponsored two speakers who presented at the Inyo County Domestic Violence Council Annual Symposium entitled *Working Together to End Abuse – Creating a Community of Hope* held in October 2011. This multi-disciplinary program was attended by 266 participants including law enforcement, educators, social workers, domestic violence treatment providers, representatives from the medical community, protective services workers, mental health professionals, prosecutors, public defenders, probation officers, childcare providers, victim advocates, representatives from the faith community, tribal administrators, tribal health care providers, court clerks, and judicial officers.

Superior Court of Santa Clara County

The project supported one nationally recognized domestic violence expert to serve as keynote speaker and lead a workshop for the Santa Clara County Domestic Violence Council's annual conference entitled *Engaging, Motivating, and Inspiring Men: The Crucial Next Step in Domestic Violence Prevention*. The conference was attended by 310 multi-disciplinary participants.

2012 Family Dispute Resolution Regional Trainings (5)

The project co-sponsored the domestic violence portion of five regional trainings for family court services professionals (mediators and evaluators) throughout the state. Regional trainings were held in San Francisco on March 23, 2012, Anaheim on April 26, 2012, Burbank on April 27, 2012 and Sacramento and Fresno on May 4, 2012. California Rules of Court, rules 5.215 and 5.230 (d) (1)-(2) require four hours of domestic violence training for family court services professionals. Domestic violence training topics included a *Family Law and Domestic Violence Update, Understanding the Effects of Family Violence on Adolescents, Media Depictions of Domestic Violence, A Continuum of Aggression: What We Know Today About Domestic Violence/ Honoring Children Voices, Enhanced Screening to Identify Indicators of Domestic Violence*. The regional trainings were attended by 305 participants.

TRIBAL COURT TECHNICAL ASSISTANCE

The tribal courts project implemented effective tribal/state policies to improve the mutual recognition and enforcement of tribal and state protective orders in the following ways:

Access to the California Courts Protective Order Registry for Tribal Courts

The project provided training and technical assistance to a total of 5 tribal courts and their tribal law enforcement departments to give them access to the California Courts Protective Order Registry (CCPOR). Access by tribal and state courts ensures that these courts can view each other's orders. The courts that have access are better able to

protect the public, particularly victims of domestic violence, and avoid issuing redundant or conflicting orders. Additional information is available at www.courts.ca.gov/15574.htm.

Assist with Development of Tribal Court Domestic Violence Forms

The project provided technical assistance to tribal justice systems in California with the development of tribal court domestic violence forms, and generally answered questions posed by tribal court clerks' and judges regarding their domestic violence calendars. In response to tribal courts and their clerk's requests for technical assistance, the project created a new webpage tailored to support tribal justice development in California and posted over 20 resources. This new webpage was launched and will be maintained by the AOC. Information is available at <http://www.courts.ca.gov/3064.htm>.

Assist with Registration of Tribal Court Protective Orders in State Court

The project developed a statewide procedure to register tribal court protective orders in state court. Effective July 1, 2012, rule 5.386 of the California Rules of Court requires state courts, on request by a tribal court, to adopt a written procedure or local rule permitting the fax or electronic filing of any tribal court protective order entitled to be registered under Family Code section 6404. Both the Violence Against Women Act (VAWA) and California law mandate full faith and credit for protective orders issued by tribal courts in accordance with VAWA requirements. [See 18 U.S.C. § 2265 and California's Uniform Interstate Enforcement of Domestic Violence Protection Orders Act (Fam. Code, §§ 6400–6409).] Under these laws, a protective order issued by a tribal or sister-state court is entitled to full faith and credit and enforcement and does not need to be registered in California. In practice, despite the full faith and credit mandate, many law enforcement agencies and officers will not enforce a protective order unless it can be verified in the California Restraining and Protective Orders System (CARPOS) through the California Law Enforcement Telecommunication System (CLETS). Very few tribal law enforcement agencies or courts currently have access to these systems to post their orders or review orders posted there by state agencies. By developing the statewide rule and assisting local courts with the development of local written procedures, recognition and enforcement of tribal protective orders have been significantly enhanced. See additional information at www.courts.ca.gov/documents/SPR11-53.pdf.

Statewide Procedure to Register Tribal Court Protective Orders

PUBLICATIONS

Annual Report and Fact Sheet

VAWEP has developed this document, a project annual report, as well as a basic project fact sheet that highlight key accomplishments and activities and that supply details about the project, its faculty, and its staff. These documents are available on the California Courts Web site: <http://www.courts.ca.gov/programs-dv.htm>. The project also distributes the report and fact sheet at educational programs and upon request.

Judges Guide to Domestic Violence Cases

The Judges Guide to Domestic Violence Cases is composed of five sections including a new section developed during the grant cycle entitled *Tribal Communities and Domestic Violence Cases*. The remaining four sections are: *California Protective Orders*, *Firearms* and *Full Faith and Credit*, revised this year, and *Immigration and Domestic Violence* and *Stalking*. The bench guide also includes a one-page bench tool, entitled *Emergency Protective Order (EPO) Quick Reference Guide*, also updated this year.

Tribal Communities and Domestic Violence Cases (Developed 2012)

This bench guide informs judicial officers about barriers, dispel myths about native victims, tribes, and the law, present a primer on federal Indian law, and highlight some of the interjurisdictional challenges state and tribal court judges face when recognizing and enforcing each other's protective orders. By understanding barriers facing native victims, delving into the complexities of federal Indian law, and uncovering the interjurisdictional challenges, courts will be better equipped to make rulings, avoid conflicting rulings, and engage native and non-native service providers and justice system professionals to better serve native victims.

California Protective Orders (Revised 2012)

The primary objective of this bench guide is to provide California judicial officers with a comprehensive reference guide to the requirements relating to the issuance of protective orders based on a variety of statutory authorities and relating to an array of court departments. The guide contains information about the underlying statutory requirements pertaining to protective orders, situations warranting the issuance of orders, the standards of proof required, the availability of the requested orders, the specific orders includable within the statutory schemes, the duration of the orders, the courts' responsibilities, any applicable firearms' restrictions, service requirements, enforcement of the orders, and other legal and procedural considerations.

Firearms and Full Faith and Credit (Revised 2012)

The primary objective of this component of the bench guide is to provide California judicial officers with a comprehensive reference to firearms prohibitions that impact domestic violence, sexual assault, and stalking cases. The guide examines federal and California statutory prohibitions. Relevant sections examine the restrictions, any exemptions, and relief from the prohibitions. The guide also covers the effect of federal law on state law, federal and California definitions, federal and California restrictions resulting from felony and misdemeanor convictions, California statutory restrictions applicable to juveniles and probationers, federal and California restrictions resulting from mental health proceedings, federal and California seizure and forfeiture procedures, and federal and California statutory restrictions applicable to protective orders.

Domestic Violence in Dependency Cases: A Judges Guide (Revised 2012)

The primary objective of this guide is to provide California judicial officers with a reference tool in considering the impact of domestic violence in juvenile court dependency cases and a description of the requirements relating to the issuance of juvenile court protective orders in dependency cases. This guide contains information about the effects of domestic violence on children, how domestic violence may affect parenting, safety considerations for the court, addressing domestic violence at each stage of a dependency case, and the issuance of juvenile court protective orders. The guide also includes a discussion of the required precedence in the enforcement of restraining orders issued by various courts.

Brochures for Judges, Attorneys, and the Public

Cross-Over Issues Relating to the Indian Child Welfare Act and Domestic Violence

<http://www.courts.ca.gov/documents/Tribal-CrossoverIWCA.pdf>

Recognition and Enforcement of Tribal Protective Orders

http://www.courts.ca.gov/documents/Tribal-RecognEnf_Brochure.pdf

Benchguides

Tribal Communities and Domestic Violence Cases Benchguide

<http://www.courts.ca.gov/documents/Tribal-DVBenchguide.pdf>

Title: Chapter on Domestic Violence in the Native American Resource Guide

Other

Published in catalogue of courses for judges the availability of a course by judges for judges on P.L. 280 and family violence

Online statistical abstract on domestic violence in native American communities

<http://www.courts.ca.gov/documents/Tribal-NAmericanStatsAbstract.pdf>

GOALS FOR FUTURE FUNDING CYCLES

In anticipation of funding for future grant cycles, VAWEP has set the following goals for the 2012–2013 project year (subject to approval and available funding):

- Convene two meetings of the project’s advisory committee;
- Conduct at least thirteen courses at the Primary Assignment Orientation Programs, the Criminal Assignment Courses programs, or at other related judicial studies programs on issues of domestic violence, sexual assault, stalking, elder abuse, teen dating violence, or human trafficking;
- Develop and publish online a project fact sheet and an annual report;
- Collaborate with the Center for Judiciary Education and Research and offer domestic violence courses at educational venues including Juvenile Law Institute, Family Law Institute, Cow County Judges Institute, Criminal Law Institute, and the 2013 B.E. Witkin Judicial College;
- Convene three stand-alone subject matter educational programs in the area of ethics and self represented litigants in domestic violence cases; trafficking and commercially sexually exploited children; and dependency proceedings involving children of domestic violence victims,
- Provide assistance to the courts or other AOC departments or regional offices in the form of a comprehensive training and technical assistance project that will provide a speakers’ bureau/peer mentoring, local training and education services, technical assistance, consultative services, and the purchase of equipment or software relating directly to the issues of domestic violence, sexual assault, stalking, teen dating violence, elder abuse, and human trafficking;
- Publish and post three modules of a stand-alone bench guide for judges guide on elder abuse cases, based on an outline completed during the previous grant year;
- Develop and conduct three cross-court educational exchanges for state and tribal court judges to continue the dialogue started as part of the Native American Communities Justice Project;
- Deliver at least two instances of distance learning training, using web-based, DVD, broadcast or other distance learning delivery methods, including judicial tool kits and check lists using content from either prior live training or based on newly created content;
- Integrate federal Indian law on domestic violence into existing judicial educational in-person programming, and develop a plan to continue integrating and updating those programs; and

- Retool existing curriculum and materials relating to P.L. 280 and family violence so that they are accessible in published catalog of courses and posted on the California Court Extranet (secured website for judges) as part of existing Judicial Toolkits.

VAWEP staff will continue to assess the greatest training, educational, and technical assistance needs of the California judicial branch so that judicial officers and court staff can optimally address the complex issues of domestic violence, sexual assault, stalking, elder abuse, teen dating violence, and human trafficking that currently face the courts.

VAWEP FACULTY

Judicial officers, researchers, and others have served as faculty for various VAWEP events. The project is grateful to these individuals for sharing their expertise with others to educate judicial officers, court staff, and professionals in other disciplines about issues of domestic and sexual violence. The following is a comprehensive list of all those who assisted the project from October 2011 through September 2012

Beyond the Bench Conference—*Family Law Domestic Violence: New Forms, Rules and Cases, The Importance of Domestic Violence Coordinating Councils, Lesbian, Gay Bisexual, and Transgender (LGBT) Domestic Violence: What You Need to Know, Human Trafficking: An Overview and Special Focus on Commercially Sexually Exploited Children (CSEC), System Change to Address Children's Exposure to Violence, Family Law Settlement Services: Developing Protocols for Domestic Violence Cases, Recognition and Enforcement of Trial Protective Orders, New Developments in the Intersection of housing, Domestic Violence, and Family Law, Working with Domestic Violence Survivors Aged 24 and Under, Representing Same-Sex Couples in Dissolution and Domestic Violence Proceedings, Legal Update: New Rules and Forms for Family Law and Domestic Violence, Effective Responses to Abusers Using Legal Systems Against Victims of Domestic Violence (December 2011)*

Ms. Tamara Abrams
Senior Attorney, Administrative Office of
the Courts

Hon. Richard Blake
Chief Judge, Hoopa Valley Tribal Court

Ms. Virginia Bird
Assistant Court Executive Officer, Superior
Court of Inyo County

Ms. Deborah Chase
Senior Attorney, Administrative Office of
the Courts

Hon. Leonard Edwards (Ret.)
Judge, Superior Court of Santa Clara
County

Hon. Mark Juhas
Judge, Superior Court of Los Angeles
County

Ms. Bonnie Rose Hough
Managing Attorney, Administrative Office
of the Courts

Ms. Nicole Edwards-Masuda
Youth Program Manager, Family Violence
Law Center, Alameda County

Hon. Douglas Hatchimonji
Judge, Superior Court of Orange County

Hon. Jacqueline J. Lewis
Judge, Superior Court of Los Angeles
County

Ms. Cindy Liou
Staff Attorney, Asian Pacific Islander Legal
Outreach

Hon. Katherine Lucero
Judge, Superior Court of Santa Clara
County

Ms. Stacie Martinez
Attorney, Bay Area Legal Aid

Ms. Kathy Moore
Former Associate Director, California
Partnership to End Domestic Violence

Ms. Khanh Nguyen
Staff Attorney, Asian Pacific Islander Legal
Outreach

Hon. Kimberly J. Nystrom-Geist
Judge, Superior Court of Fresno County

Ms. Protima Pandey
Staff Attorney, Bay Area Legal Aid

Hon. Catherine Pratt
Commissioner, Superior Court of Los
Angeles County

Ms. Ann Rosewater
Consultant, California Leadership Group on
Domestic Violence and Child Wellbeing

Ms. Catherine Sakimura
Staff Attorney, National Center for
Lesbian Rights

Ms. Meliah Schultzman
Staff Attorney, National Housing Law
Project

Ms. Erin Scott
Director of Programs, Family Violence
Law Center, Alameda County

Ms. Terra Slavin
Lead Staff Attorney, Los Angeles Gay and
Lesbian Center

Hon. Dean Stout
Judge, Superior Court of Inyo County

Ms. Akiko Takeshita
Staff Attorney, Asian Pacific Islander Legal
Outreach

Mr. Paul Thorndal
Partner, CFLS, Wald & Thorndal

Ms. Julia Weber
Supervising Attorney, Administrative
Office of the Courts

Hon. Claudette White
Chief Judge, Quechan Tribal Court

Ms. Kristie Whitehorse
Managing Attorney, Family Violence Law
Center, Alameda County

Ms. Carolyn Thomas-Wold
Director, Solano County Office of Family
Violence Prevention

Hon. D. Zeke Zeidler
Judge, Superior Court of Los Angeles
County

Primary Assignment Orientation Courses—Family Law (*Domestic Violence Law and Procedure, Domestic Violence and Custody*) Juvenile Delinquency (*Juvenile Delinquency Orientation*), Probate (*Civil Protective Orders for Elderly and Dependent Adults*), Criminal Law (*Issues Unique to Domestic Violence*), Juvenile Dependency (*The Impact of Domestic Violence on Children*) (January, June and September 2012)

Hon. Irma Asberry
Judge, Superior Court of Riverside County

Dr. Margaret Lee
Mill Valley

Hon. Joyce M. Cram
Judge, Superior Court of Contra Costa
County

Dr. Mary Elizabeth Lund
Lund & Strachan, Inc., Santa Monica

Hon. Mark A. Juhas
Judge, Superior Court of Los Angeles
County

Hon. Darrell Mavis
Judge, Superior Court of Los Angeles
County

Hon. Allan D. Hardcastle
Judge, Superior Court of Sonoma County

Hon. Beverly Reid O'Connell
Judge, Superior Court of Los Angeles
County

Hon. Brian Hoffstadt
Judge, Superior Court of Los Angeles
County

Hon. Philip H. Pennypacker
Judge, Superior Court of Santa Clara
County

Hon. Michael Gassner
Commissioner, Superior Court of San
Bernardino County

Hon. Dale R. Wells
Judge, Superior Court of Riverside County

Hon. Carol Isackson
Judge, Superior Court of San Diego County

Continuing Judicial Education Criminal Assignment Courses—*Handling Sexual Assault Cases, Selected Issues in Criminal Domestic Violence Cases – Criminal Procedure from Arraignment through Sentencing* (March and June 2012)

Hon. George W. Clarke
Judge, Superior Court of San Diego County

Hon. Brian Hoffstadt
Judge, Superior Court of Los Angeles
County

Hon. J. Richard Couzens (Ret.)
Judge, Superior Court of Placer County

Dr. Ellen G. Stein
Clinical and Forensic Psychologist, San
Diego

Criminal Law Institute —*Protective Orders and Reducing Lethality in Domestic Violence Cases* (February 2012)

Hon. Lewis A. Davis
Judge, Superior Court of Contra Costa
County

Hon. Erick L. Larsh
Judge, Superior Court of Orange County

Domestic Violence Ethics and Self-Represented Litigants (March 2012).

Hon. Jerilyn Borack
Judge, Superior Court of Sacramento
County

Hon. B. Scott Thomsen
Judge, Superior Court of Nevada County

Hon. Becky Dugan
Judge, Superior Court of Riverside County

Hon. Erica A. Yew
Judge, Superior Court of Santa Clara
County

Hon. Mark A. Juhas
Judge, Superior Court of Los
Angeles County

Domestic Violence Judicial Institute: Enhancing Judicial Skills in Domestic Violence Cases and Pre-Institute Course: Nuts and Bolts of California Domestic Violence Restraining Order Laws (May 2012)

Hon. Irma Asberry
Judge, Superior Court of Riverside County

Hon. Sharon Chatman
Judge, Superior Court of Santa Clara
County

Hon. Jerilyn Borack
Judge, Superior Court of Sacramento
County

Hon. Sherrill Ellsworth
Judge, Superior Court of Riverside County

Hon. Susan Breall
Judge, Superior Court of San Francisco
County

Hon. Julie Emede
Judge Superior Court of Santa Clara
County

Hon. Yvonne Campos
Judge, Superior Court of San Diego County

Hon. Curtis Fiorini
Judge, Superior Court of Sacramento
County

Hon. Janet Gaard
Judge, Superior Court of Yolo County

Hon. Michele Levine
Judge, Superior Court of Riverside County

Hon. Garry Haehnle
Judge, Superior Court of San Diego County

Hon. Gregory Olson
Commissioner, Superior Court of Riverside
County

Hon. Arlan Harrell
Judge, Superior Court of Fresno County

Hon. Tara Reilly
Judge, Superior Court of San Bernardino
County

Hon. Mark A. Juhas
Judge, Superior Court of Los Angeles
County

Cow County Judges Institute—*Lethality and Dangerousness in Domestic Violence Cases, Criminal Elder Abuse* (June 2012)

Hon. Abby Abinanti
Chief Judge of the Yurok Tribal Court,
Klamath

Hon. Joyce Cram
Judge, Superior Court of Contra Costa
County

Dr. Jacquelyn C. Campbell
Professor, Johns Hopkins University,
School of Nursing, Baltimore, Maryland

Hon. Dean Stout
Judge, Superior Court of Inyo County

Hon. Julie Conger (Ret.)
Judge, Superior Court of Alameda County

B.E. Witkin Judicial College—*Domestic Violence Awareness* (August 2012)

Hon. Dianna J. Gould-Saltman
Judge, Superior Court of Los Angeles County

Hon. Philip H. Pennypacker
Judge, Superior Court of Santa Clara County

Hon. Jane Shade
Commissioner, Superior Court of Orange County

Domestic Violence Safety Partnership (DVSP) Project (October 2011-September 2012)

Det. Michael Agnew (Ret.)
Fresno Police Department

Mr. Lundy Bancroft
Domestic Violence Consultant,
Northampton, Massachusetts

Ms. Sarah Buel
Clinical Professor, Sandra Day O'Connor
College of Law, Arizona State University

Dr. Tonya Chaffee
Associate Clinical Professor, Health
Sciences, School of Medicine, University of
California, San Francisco

Dr. Jeffrey Edelson
Dean and Professor, School of Social
Welfare, University of California, Berkeley

Ms. Alyce LaViolette
Domestic Violence Consultant, Long Beach

Ms. Elizabeth MacDowell
Associate Professor of Law, University of
Nevada

Dr. Ian Russ
Child Custody Evaluator, Encino

Ms. Gabrielle Selden
Attorney, Administrative Office of the
Courts

Ms. Alicia Stonebreaker
Program Coordinator, California
Partnership to End Domestic Violence,
Sacramento

Ms. Julia Weber
Supervising Attorney, Administrative
Office of the Courts

APPENDIX

STOP GRANT PURPOSE AREAS

The U.S. Department of Justice, Office on Violence Against Women STOP (Services*Training*Officers*Prosecutors) formula grants are intended for use by states; state, local, and tribal courts; Indian tribal governments; units of local government; and nonprofit, nongovernmental victim services programs. Grants supported through this program must fall into one or more statutory program purpose areas. The purpose areas most closely related to this project are:

- Training law enforcement officers, judges, other court personnel, and prosecutors to more effectively identify and respond to violent crimes against women, including the crimes of sexual assault, domestic violence, and dating violence;
- Developing, training, or expanding units of law enforcement officers, judges, other court personnel, and prosecutors specifically targeting violent crimes against women, including the crimes of sexual assault and domestic violence;
- Developing, enlarging, or strengthening victim services programs, including sexual assault, domestic violence, and dating violence programs; developing or improving delivery of victim services to underserved populations; providing specialized domestic violence court advocates in courts where a significant number of protection orders are granted; and increasing reporting and reducing attrition rates for cases involving violent crimes against women, including crimes of sexual assault, domestic violence, and dating violence;
- Developing, enlarging, or strengthening programs addressing stalking;
- Supporting formal and informal statewide, multidisciplinary efforts, to the extent not supported by state funds, to coordinate the response of state law enforcement agencies, prosecutors, courts, victim service agencies, and other state agencies and departments to violent crimes against women, including the crimes of sexual assault, domestic violence, and dating violence;
- Developing and implementing more effective police, court, and prosecution policies, protocols, orders, and services specifically devoted to preventing, identifying, and responding to violent crimes against women, including the crimes of sexual assault and domestic violence;
- Developing, installing, or expanding data collection and communication systems, including computerized systems, linking police, prosecutors, and courts or for the purpose of identifying and tracking arrests, protection orders, violations of protection orders, prosecutions, and convictions for violent crimes against women, including the crimes of sexual assault and domestic violence;
- Developing, enlarging, or strengthening programs addressing the needs and circumstances of Indian tribes in dealing with violent crimes against women, including the

crimes of sexual assault and domestic violence; and

- Developing, enlarging, or strengthening programs to assist law enforcement, prosecutors, courts, and others to address the needs and circumstances of older and disabled women who are victims of domestic violence or sexual assault, including recognizing, investigating, and prosecuting instances of such violence or assault and targeting outreach and support, counseling, and other victim services to such older and disabled individuals.

**Domestic Violence Practice and Procedure Task Force
Annual Agenda—2013
Approved by E&P/RUPRO: _____**

I. COMMITTEE INFORMATION

Chair:	Hon. Laurence Donald Kay (Ret.), former Presiding Justice, Court of Appeal, First District, Division Four
Staff:	Ms. Bobbie Welling, Supervising Attorney; Ms. Penny Davis, Senior Court Analyst; Ms. Carly Thomas, Administrative Coordinator; Center for Families, Children & the Courts
<p>Committee's Charge:</p> <ul style="list-style-type: none"> • Implement as appropriate the guidelines and the practices in the Final Report of the Domestic Violence Practice and Procedure Task Force accepted by the Judicial Council on February 22, 2008; • Select and refer guidelines and practices, as appropriate, to Judicial Council internal committees, advisory committees, AOC divisions, or other entities for implementation, including preparation of suggested legislation, rules, forms, or educational materials to be considered through the normal judicial branch processes; • Collaborate with Center for Judicial Education and Research Governing Committee to propose revision of the rules relating to minimum judicial educational requirements to address issues of domestic violence; • Study the need for additional resources that local courts may require to implement the proposed guidelines and practices; and • Periodically report progress of implementation efforts to the Judicial Council. <p><i>[See request for revision of charge and extension of terms in key objectives below.]</i></p>	
<p>Committee Membership:</p> <p>16 members: 1 justice of the Court of Appeal (retired); 12 judges/retired judges, 3 current/retired court executive officers</p>	
<p>Subcommittees/Working Groups:</p> <p>Not applicable</p>	

Committee's Key Objectives for 2013:

1. Request revision of the task force charge to include the existing functions of the Violence Against Women Education Project (VAWEP) Planning Committee to achieve cost savings and ensure accountability;
2. Research and recommend proposals to address current issues in domestic violence cases;
3. Plan for and evaluate judicial branch education programs, practical bench tools and publications, and interactive symposia about domestic violence and related subjects in collaboration with the Center for Judicial Education and Research Governing Committee; and
4. Develop, collaborate with other relevant advisory groups, and recommend to the Judicial Council changes in procedure, rules, or recommended practices in domestic violence and related cases.

II. COMMITTEE PROJECTS

#	Project ¹	Priority ²	Specifications	Completion Date/Status
1	<p>Serve as planning group required by grant funding for the Violence Against Women Education Project (VAWEP)</p> <p>Request revision of the task force charge, extension of its members' terms to June 30, 2015, and appointment of additional members to provide for review and guidance for grant activities as required by the funder.</p>	1	<p>Judicial Council Direction:</p> <p>Goal IV -- Quality of Justice and Service to the Public</p> <p>Objective 1 – Foster excellence in public service to ensure that all court users receive satisfactory services and outcomes.</p> <p>Objective 3 – Develop and support collaborations to improve court practices, to leverage and share resources, and to create tools to education court stakeholders and the public.</p> <p>Goal V-- Education for Branchwide Professional Excellence</p> <p>Objective 1 – Provide relevant and accessible education and professional development opportunities for all judicial officers (including court-appointed temporary judges) and court staff.</p> <p>Required by grant funder</p> <p>Origin of Project: The current Violence Against Women Education Project (VAWEP) funding requires continuation of a planning committee</p>	Revision by March 30, 2013; ongoing

¹ All proposed projects for the year must be included on the Annual Agenda. If a project implements policy or is a program, identify it as *implementation* or a *program* in the project description and attach the Judicial Council authorization/assignment or prior approved Annual Agenda to this Annual Agenda.

² For non-rules and forms projects, select priority level 1 (must be done) or 2 (should be done). For rules and forms proposals, select one of the following priority levels: 1(a) Urgently needed to conform to the law; 1(b) Urgently needed to respond to a recent change in the law; 1(c) Adoption or amendment of rules or forms by a specified date required by statute or council decision; 1(d) Provides significant cost savings and efficiencies, generates significant revenue, or avoids a significant loss of revenue; 1(e) Urgently needed to remedy a problem that is causing significant cost or inconvenience to the courts or the public; 1(f) Otherwise urgent and necessary, such as a proposal that would mitigate exposure to immediate or severe financial or legal risk; 2(a) Useful, but not necessary, to implement statutory changes; 2(b) Helpful in otherwise advancing Judicial Council goals and objectives.

#	Project ¹	Priority ²	Specifications	Completion Date/Status
			<p>“comprised of judicial officers, attorneys, district attorney representatives, victim advocates, Tribal representatives, and other subject matter experts to guide the project staff in identifying the training needs of California court personnel in the areas of domestic violence, sexual assault, stalking, dating violence, and human trafficking.”</p> <p>A fact sheet about the project, which includes the planning committee roster, is attached.</p> <p>Since inception of its implementation phase, the task force has worked collaboratively with the VAWE Planning Committee, an informal group, on key grant-funded projects. The task force proposes formalizing what has historically been an informal arrangement to meet grant conditions.</p> <p>Cost savings, continuity, and accountability could be better achieved by combining the two groups under the auspices of the task force. The task force proposes to submit a plan for augmentation of the task force membership, not to exceed 28 members, to comply with grant requirements.</p> <p>Resources:</p> <p>Key Objective Supported: Key Objective # 1</p>	
2	<p>Develop a plan to address new and emerging issues relating to domestic violence cases</p> <p>Make recommendations to the Judicial Council regarding how best to address the continuing need to respond to new and emerging issues in</p>	1	<p>Judicial Council Direction:</p> <p>Goal IV -- Quality of Justice and Service to the Public</p> <p>Objective 1 – Foster excellence in public service to</p>	<p>Submit report and evaluation to Judicial Council, June 2014</p>

#	Project ¹	Priority ²	Specifications	Completion Date/Status
	domestic violence and related cases.		<p>ensure that all court users receive satisfactory services and outcomes.</p> <p>Objective 3 – Develop and support collaborations to improve court practices, to leverage and share resources, and to create tools to education court stakeholders and the public.</p> <p>Origin of Project: The current fiscal crisis in the California courts has created an urgent need to evaluate whether a continued statewide ongoing presence is necessary to make recommendations for changes in practice and procedure relating to domestic violence issues. Potential new and emerging issues include: evaluating the impact of court closures and the need for increased access and safety; realignment and the development of evidenced-based practices as they may relate to domestic violence cases; demographic changes and the aging population and their impact on elder abuse; the complexity of domestic violence cases involving mental health and substance abuse issues; the changing needs of military families for whom family violence may be a factor; and the need to deploy technology to assist in solving problems of access and safety.</p> <p>Resources: Consult with all relevant advisory groups as needed.</p> <p>Key Objective Supported: Key Objective # 2</p>	

#	Project ¹	Priority ²	Specifications	Completion Date/Status
3	Publications and Bench Tools Provide review and guidance in the development and distribution of the following bench tools and publications: <ul style="list-style-type: none"> • two modules of an elder abuse bench guide; • a script for judicial officers relating to firearms relinquishment; • a bench card on the mandatory terms and conditions of probation in domestic violence cases; • online publication of an annual report and fact sheet about grant activities; and • updated guidelines originally recommended by the task force and approved by the Judicial Council in 2008. 	2	Judicial Council Direction: Implementation of task force recommendations Goal V-- Education for Branchwide Professional Excellence Objective 1 – Provide relevant and accessible education and professional development opportunities for all judicial officers (including court-appointed temporary judges) and court staff. Origin of Project: The publications and bench tools project contains both items relating to the task force charge and deliverables within the Violence Against Women Education Project grant. Resources: CJER Governing Committee Key Objective Supported: Key Objective #3	September 30, 2013, end of the grant year
4	Judicial Branch Statewide and Regional Educational Programs Recommend and evaluate key judicial branch educational programs for those hearing domestic violence matters. A fact sheet summarizing this year's planned activities is attached.	1	Judicial Council Direction: Implementation of task force recommendations Goal V-- Education for Branchwide Professional Excellence Objective 1 – Provide relevant and accessible education and professional development opportunities for all judicial officers (including court-appointed temporary judges) and court staff. Origin of Project: The judicial branch education project contains both items relating to the task force charge and deliverables within the Violence Against Women Education Project grant.	Ongoing

#	Project ¹	Priority ²	Specifications	Completion Date/Status
			Resources: CJER Governing Committee Key Objective Supported: Key Objective #3	
5	Local Court Education and Technical Assistance -- Domestic Violence Safety Partnership (DVSP) Plan and evaluate support and technical assistance for local judicial and staff education in response to requests from presiding judges and court executive officers. A fact sheet about this project is attached.	2	Judicial Council Direction: Implementation of task force recommendations Goal V-- Education for Branchwide Professional Excellence Objective 1 – Provide relevant and accessible education and professional development opportunities for all judicial officers (including court-appointed temporary judges) and court staff. Origin of Project: The local court education and technical assistance project contains both items relating to the task force charge and deliverables within the Violence Against Women Education Project grant. Resources: CJER Governing Committee. Key Objective Supported: Key Objective #3	Ongoing; grant objectives specify conducting at least 7 local programs
6	Family Law Firearms Relinquishment Procedure Recommend rule relating to firearms relinquishment in proceedings under the Domestic Violence Prevention Act.	1	Judicial Council Direction: Goal III – Modernization of Management and Administration Objective 4—Uphold the integrity of court orders, protect court user safety, and improve public understanding of compliance requirements; improve the collection of fines, fees, and forfeitures statewide. Objective 5 – Develop and implement effective trial	Jan. 2014 Draft pending before task force

#	Project ¹	Priority ²	Specifications	Completion Date/Status
			<p>and appellate case management rules, procedures, techniques, and practices to promote the fair, timely, consistent, and efficient processing of all types of cases.</p> <p>Goal IV -- Quality of Justice and Service to the Public</p> <p>Objective 1 – Foster excellence in public service to ensure that all court users receive satisfactory services and outcomes.</p> <p>Objective 3 – Develop and support collaborations to improve court practices, to leverage and share resources, and to create tools to education court stakeholders and the public.</p> <p>Origin of Project: This project is within the task force charge.</p> <p>Resources: The task force will take the lead in developing a family law firearms relinquishment proposal in consultation with the Family & Juvenile Law Advisory Committee, and the task force and the advisory committee will consider a joint proposal for circulation.</p> <p>Key Objective Supported: Key Objective # 4</p>	
7	Distance Learning Projects Plan and evaluate at least two instances of distance learning training, using web-based, DVD, broadcast, or other distance learning delivery methods, including judicial tool kits and check lists using content from either prior live trainings or based on newly created content.	2	Judicial Council Direction: Implementation of task force recommendations Goal V-- Education for Branchwide Professional Excellence Objective 1 – Provide relevant and accessible education and professional development opportunities for all judicial officers (including	September 30, 2013

#	Project ¹	Priority ²	Specifications	Completion Date/Status
			<p>court-appointed temporary judges) and court staff.</p> <p>Origin of Project: The distance learning project contains both items relating to the task force charge and deliverables within the Violence Against Women Education Project grant.</p> <p>Resources: CJER Governing Committee</p> <p>Key Objective Supported: Key Objective #3</p>	
8	<p>Domestic Violence and Dependency Forum</p> <p>Plan and evaluate an interactive invitational educational forum to discuss problems and issues relating to domestic violence and dependency cases and to identify emerging best practices when children who are exposed to domestic violence are adjudicated as dependents. Post an educational forum report on Serranus.</p>	2	<p>Judicial Council Direction:</p> <p>Goal V-- Education for Branchwide Professional Excellence</p> <p>Objective 1 – Provide relevant and accessible education and professional development opportunities for all judicial officers (including court-appointed temporary judges) and court staff.</p> <p>Origin of Project: The domestic violence and dependency forum relates to the task force charge and deliverables within the Violence Against Women Education Project grant.</p> <p>Resources: Family & Juvenile Law Advisory Committee</p> <p>Key Objective Supported: Key Objective #3</p>	September 30, 2013

#	Project ¹	Priority ²	Specifications	Completion Date/Status
9	Domestic Violence Judicial Newsletter Provide guidance to the AOC in the continued publication of an online newsletter for judicial officers and court staff. The newsletter will highlight new legislation, significant cases, local court innovative projects, educational opportunities, and best practices. The newsletter will support education and information about implementation efforts generally.	2	Judicial Council Direction: Goal V-- Education for Branchwide Professional Excellence Objective 1 – Provide relevant and accessible education and professional development opportunities for all judicial officers (including court-appointed temporary judges) and court staff Origin of Project: The newsletter project relates to the task force charge. Resources: The newsletter would continue to be distributed on line through Court News Update, and staff would coordinate with CNU staff. Key Objective Supported: Key Objective #3	Ongoing
10	California Courts Protective Order Registry (CCPOR) Serve in an advisory role as subject matter experts in the continued deployment of the CCPOR project. The project has developed a restraining order database so that the full text of all restraining and protective court orders statewide will be available easily online to judicial officers and staff. The database has been deployed in 21 courts, and an additional 10 courts will be deployed through grant funding during the next fiscal year.	1	Judicial Council Direction: Goal III – Modernization of Management and Administration Objective 4 Uphold the integrity of court orders, protect court user safety, and improve public understanding of compliance requirements; improve the collection of fines, fees, and forfeitures statewide. Goal IV – Quality of Justice and Service to the Public Objective 1—Foster excellence in public service to ensure that all court users receive satisfactory services and outcomes	June 30, 2013 for next 10 courts; ongoing

#	Project ¹	Priority ²	Specifications	Completion Date/Status
			<p>Origin of Project: Judicial Council direction as part of task force charge.</p> <p>Resources: Court Technology Advisory Committee, Information Technology Services Office.</p> <p>Key Objective Supported: Key Objective #3</p>	

III. STATUS OF 2012 PROJECTS:

[List each of the projects that were included in the 2012 Annual Agenda and provide the status for the project. If the project is on the proposed 2013 Annual Agenda, include cross-reference to the 2013 project number above under Completion Date/Status.]

#	Project	Completion Date/Status
1	Firearms relinquishment rule follow up	Completed: Follow up report submitted to the Judicial Council and approved on February 9, 2012. Draft protocol reviewed and approved by task force, to be posted on Serranus and distributed in judicial education programming February 2013
2	Inclusion of practices in judicial education	Ongoing See 2013 Objective #4
3	Update bench cards and bench guides	Completed: Judges Guide to Domestic Violence Cases, Domestic Violence and Dependency Cases: A Judges Guide; restraining order bench cards all updated and posted online – December 2012
4	California Courts Protective Order Registry (CCPOR) Project	Ongoing, see 2013 Objective # 10
5	Revise Emergency Protective Order form JC Form EPO-001	Completed, revised form effective 1/1/13
6	Serranus site map and domestic violence newsletter	Ongoing; site map deferred; to be integrated into CJER judicial tool kits See 2013 Objective # 9
7	Revision and formal publication of recommended guidelines and practices	Guidelines updated; to be posted Feb. 2013

IV. RESOURCE INFORMATION

[For the committee year (11/1/2012 - 10/31/2013), provide the position classifications and hours spent by staff relating to this committee (including subcommittee and working group activities) in the table below broken out between logistical versus substantive activities.]

Office	Position Classification	Hours/Year		Total Hours/Year
		Logistical	Substantive	
Center for Families, Children & the Courts	Supervising Attorney		221	221
Center for Families, Children & the Courts	Attorney		40	40
Center for Families, Children & the Courts	Senior Court Analyst		24	24
Center for Families, Children & the Courts	Administrative Coordinator	32		32

V. COST INFORMATION

[Provide the following estimated cost information for the committee year (11/1/2012 - 10/31/2013), as well as separate cost information (if appropriate) for any subcommittees or working groups.]

	In-person meeting(s) Number:	Video- /teleconference(s) Number:	Total
TRAVEL			
Airfare	\$ 4,500	\$	4,500
Hotel/Meals (allowable per diem)	\$ 700	\$	700
All other travel costs (mileage, parking etc.)	\$ 1,500	\$	1,500
Total Cost for Travel Expenses	\$6,700	\$	\$ 6,700
CATERING			
Total Catering Costs	\$ 450	\$	\$450
MATERIALS/MAILING/OTHER			
<i>Duplication of Meeting Materials/Overnight Mailing</i>	\$300	\$	300
<i>[Specify]</i>	\$	\$	
<i>[Specify]</i>	\$	\$	
Total Materials/Mailing/Other	\$300	\$	\$ 300
Grand Total	\$7,450	\$	\$ 7,450

VI. Subcommittees/Working Groups - Detail

Subcommittees/Working Groups:

Not applicable



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FACT SHEET

August 2012

Domestic Violence Safety Partnership (DVSP)

Domestic violence is a critical issue facing family, criminal, and juvenile courts in California. The Domestic Violence Safety Partnership (DVSP) was developed to enhance safety and improve practices and protocols in the handling of domestic violence cases. A court that participates in the DVSP may use the Domestic Violence Safety Partnership Self-Assessment—a tool furnished by the Administrative Office of the Courts (AOC)—to examine its own practices and needs in the handling of domestic violence cases, especially in relation to legal mandates¹. The court, if it wishes, can then work with the DVSP project staff to discuss ways of improving its practices or to obtain the training or technical assistance that the court has determined would be helpful.

The court does not pay for training or technical assistance received through the DVSP. Funding for this component of the project is granted to the AOC by the California Emergency Management Agency (Cal EMA), with resources from the federal Office on Violence Against Women (OVW).

Project Goals

DVSP provides resources for local courts so that they can:

- Identify and review selected statutes and other mandates addressing domestic violence;
- Identify and review safety considerations related to domestic violence cases;
- Obtain technical assistance to ensure compliance with requirements or enhance safety;
- Deliver local training on domestic violence-related topics for judicial officers or court staff; and
- Obtain computer or audiovisual equipment for court-specific domestic violence related projects.

¹ The self-assessment tool is being reviewed and revised. The 2010 version is no longer current. Courts may refer to it, however, at <http://serranus.courtinfo.ca.gov/programs/dvsp>. A new tool will be available January 2013.

Assessment Tools

The packet addresses procedures in the following categories:

- Emergency Protective Orders
- Civil Domestic Violence [Domestic Violence Protection Act (DVPA)]—Prehearing
- Civil Domestic Violence (DVPA)—Hearing
- Civil Domestic Violence (DVPA)—Post-hearing
- Domestic Violence Review—Family Court Services Domestic Violence Protocol
- Criminal Court Domestic Violence Restraining Order Review
- Juvenile Dependency Court Restraining Orders—General
- Juvenile Dependency Court Restraining Orders—Temporary Restraining Orders
- Juvenile Dependency Court Restraining Orders—Content of Orders
- Juvenile Dependency Court Restraining Orders—Post-hearing
- Juvenile Dependency Court—Court-Connected Dependency Mediation
- Juvenile Delinquency Court Restraining Orders—General
- Juvenile Delinquency Court Restraining Orders—Temporary Restraining Orders
- Juvenile Delinquency Court Restraining Orders—Content of Orders
- Juvenile Delinquency Court Restraining Orders—Post-hearing
- Court Administration: Facilities and Education
- Part II—Safety Considerations

Criteria for Applying for Funds for Technical Assistance or Local Education

Applications for technical assistance or local education will be handled on a first-come, first-served basis until funds are exhausted. DVSP funds will be expended for short-term projects up to \$5,000. Requests for amounts that exceed \$5,000 will be taken into consideration on a case-by-case basis. The funding cycle is on the federal fiscal year from October 1 through September 30. As a result, all activities must be completed by September 30, 2013. No funds are available to pay directly for meals, although travel meals can be reimbursed through a travel claim process, using the state's per diem rates.

All requests must be directly related to the DVSP's primary goals set out above. Requests must also relate specifically to enhancing a court's response in cases involving adult victims of domestic violence.

Types of Assistance Available

No funds will be given directly to the local courts. Requests for assistance must be for goods or services that can be procured by the AOC. Examples of likely types of assistance follow:

- Reimbursement of travel costs for a team from your court to visit another court;
- Purchase of consulting services to assist your court;
- Payment of an honorarium and travel expenses for faculty for a local education program;
- Funding for logistical expenses (excluding payment for on-site meals) associated with local education programs; and
- Purchase of computer equipment to access either the California Court Protective Order Registry (CCPOR) or the California Restraining and Protective Order System (CARPOS) or other relevant databases housed within the California Law Enforcement Telecommunications System (CLETS).
- Purchase of audio visual equipment to show videos to parties in domestic violence court on court procedure.

Further Information and DVSP Staff

For additional information about DVSP please visit
<http://serranus.courtinfo.ca.gov/programs/dvsp> or contact:

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**Domestic Violence Practice and Procedure Task Force
Chronology and Projects
2005—2013**

1. Fact Finding and Recommendation Phase

- ✓ **Appointment** – September 2005
- ✓ **Fact finding:**
 - Public hearings (2)
 - Regional court meetings (3)
 - Distribution of guidelines for statewide comment
 - Comment analysis
- ✓ **Recommendations:**
 - Recommended guidelines and practices submitted to the Judicial Council in the areas of Court Leadership, Domestic Violence Prevention Act Restraining Orders, Firearms Relinquishment, Access to and Entry of Orders into the California Law Enforcement Telecommunications System (CLETS), and Criminal Procedure (139 guidelines/practices)
 - Report Submitted to and Received by the Judicial Council -- February 2008

2. Implementation Phase

- ✓ **Educational Programs [Total 191 events/workshops – conducted in partnership with CJER and VAWEP]**
 - Criminal law – domestic violence components/workshops
 - Primary Assignment Orientations (16)
 - Special Topics – Immigration, Criminal Procedure (3)
 - Criminal Law Institute Workshops (2)
 - Family law—domestic violence components/workshops
 - Primary Assignment Orientations (14)
 - Family Law Institute Workshops (7)
 - Family Court Professionals (34)
 - Juvenile law (dependency and delinquency)
 - Primary Assignment Orientations (8)
 - Juvenile Law Institute Workshops (5)

- Probate
 - Primary Assignment Orientations (5)
 - Elder abuse (2)
- Interdisciplinary
 - Managing for Safety (Presiding Judges and Court Executive Officers) (1)
 - Ethics and Self-Represented Litigants in Domestic Violence Cases (5)
 - Domestic Violence Institute (3)
 - Judges College (6)
 - Cow County Institute workshops (9)
- Assigned Judges (3)
- Conferences
 - Women of Color Conference (1 domestic violence track)
 - Beyond the Bench (18 workshops)
 - National Association of Women Judges (4 workshops)
- Distance Learning Projects (2)
 - (DVDs, Broadcasts, Online courses)
- Domestic Violence Safety Partnership Program
 - Local court education and technical assistance (34 courses)
- Specialized informational meetings
 - Firearms (2)
 - Juvenile court restraining orders (1)

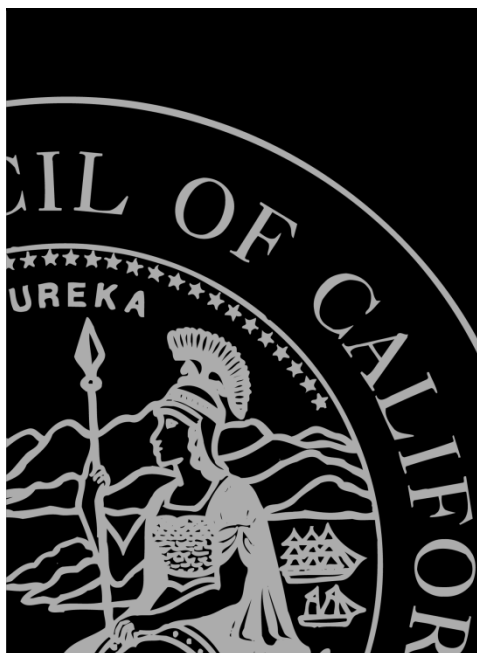
✓ **Rules of Court**

- Education – California Rules of Court, rule 10.462
- Criminal law firearms relinquishment – California Rules of Court, rule 4.700
- Family law firearms relinquishment – in development

✓ **Forms Changes**

- Restraining order forms – DV 110 and 109
- Emergency Protective Order Form

- ✓ **California Courts Protective Order Registry (CCPOR) Project**
Implemented in 31 courts by June 2013
- ✓ **Court Meetings and Roundtables (5)**
- ✓ **Publications and Bench Tools**
 - Judges Guide to Domestic Violence Cases
 - Domestic Violence and Dependency
 - Elder Abuse – in development
 - Recognizing Dangerousness and Lethality Bench Card
 - Judicial Update Newsletter (3 issues)



Recommended Guidelines and Practices for Improving the Administration of Justice in Domestic Violence Cases

FINAL REPORT OF THE DOMESTIC
VIOLENCE PRACTICE AND
PROCEDURE TASK FORCE

JANUARY 2008

[WITH ENDNOTES ADDED AUGUST
2013 REFLECTING CURRENT LAW]



ADMINISTRATIVE OFFICE
OF THE COURTS

CENTER FOR FAMILIES, CHILDREN
& THE COURTS

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The Presiding Judges' White Paper on Domestic Violence: The Role of the Presiding Judge in the Administration of Domestic Violence Cases	

Introduction to Recommended Guidelines and Practices

On September 6, 2005, Chief Justice Ronald M. George appointed the Judicial Council Domestic Violence Practice and Procedure Task Force to recommend improvements to court practice and procedure in cases involving domestic violence allegations. As Chief Justice George stated when he initially appointed the task force members, “Our goals are to ensure fair, expeditious, and accessible justice for litigants in these critical cases and to promote both victim safety and perpetrator accountability.”

The task force charge also 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, entitled *Keeping the Promise: Victim Safety and Batterer Accountability*.

Areas of Inquiry

A significant component of the task force’s work has involved the development of a series of recommended guidelines and practices. These guidelines and practices were derived from statutory and other mandates as well as suggestions for improvements in the administration of justice relating to cases alleging domestic violence. In general, the guidelines and practices fall into the following categories of inquiry:

- Court leadership;
- Restraining orders;
- Firearms relinquishment;
- Entry of restraining and protective orders into the Domestic Violence Restraining Order System (DVROS) and access to that system; and
- Criminal law procedures.

Methodology

Over a period of two years, the task force met eight times and conducted a series of conference calls, both to develop and discuss the proposed guidelines and practices and to review the comments, public hearing testimony, and regional court meeting summaries received. In crafting its recommendations, the task force relied on the expertise and experience of its members, an extensive literature search, recommendations submitted by presiding judges and court executive officers, suggestions from attendees at judicial education programs in subject areas relating to domestic violence, and survey results from court staff and family law judicial officers. In addition, the task force conducted two invitational forums designed to develop proposals in the difficult areas of firearms restrictions and relinquishment and access to and entry of orders into DVROS.

In March 2007, the task force conducted public hearings in San Francisco and Los Angeles. In May and June 2007, Chief Justice George invited local courts to conduct community meetings designed to determine how the proposals would work practically in local jurisdictions. Regional court meetings were then convened in Sonoma, Burlingame, and Torrance to bring court leaders together to share the results of the local meetings and to further develop the proposals. Finally, the task force conducted focus groups with specific stakeholders and interactive meetings with the following Judicial Council

advisory committees: Family and Juvenile Law Advisory Committee, Criminal Law Advisory Committee, Collaborative Justice Courts Advisory Committee, Trial Court Presiding Judges Advisory Committee, and Court Executives Advisory Committee.

Guiding Principles

Development of the task force proposals was guided by the following key principles, as well as by goals previously established by the Judicial Council:

- 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.

These overarching principles are consistent with and derived from the Judicial Council's strategic plan and three of its primary goals: Access, Fairness, and Diversity; Quality of Justice and Service to the Public; and Modernization of Management and Administration. Moreover, these principles fit squarely within several of the thematic areas targeted by the council as part of its continuing efforts to improve public trust and confidence in the California courts: removing barriers to court access, recognizing the needs of a diverse population, and ensuring fairness in procedures and outcomes.

The task force, in developing its recommended guidelines and practices, recognizes that improving the administration of justice in cases involving allegations of domestic violence must be a systemic endeavor. Many of these proposals are detailed and technical in nature because systemic problems often require a detailed analysis and approach. The task force wishes to emphasize that implementation of some of its proposals will require additional resources. The members believe, however, that scarce resources should not limit the courts in determining how to improve the administration of justice in domestic violence cases, and that courts should be encouraged to examine and evaluate how resources are allocated.

Court Leadership

Local court leadership is a critical component of any effort to improve the administration of justice in domestic violence cases. More importantly, court leadership is necessary for both maintaining and institutionalizing improvements that have been already achieved. As stated in the 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*:

To redress most of the problematic practices we have identified, there must be close collaboration among multiple agencies in each local criminal justice system. In most of those collaborative efforts, perhaps the most significant agency—certainly a necessary agency—is the judiciary.¹

Cognizant of this crucial court leadership role, the task force consulted with numerous presiding judges and court executive officers and invited testimony on the issue of court leadership at its public hearings. The task force determined that its proposals relating to court leadership in the administration of domestic violence cases should further the following goals:

- Urge allocation of adequate resources to domestic violence cases;
- Provide for ongoing evaluation and monitoring;
- Encourage local court participation in domestic violence councils or court-convened committees made up of all interested justice system entities and community organizations;
- Encourage participation in a statewide registry of protective and restraining orders;
- Recommend that the creation of specialized domestic violence courts or calendars be considered;
- Discourage the use of temporary judges in domestic violence cases; and
- Ensure that judicial officers who perform duties in domestic violence matters receive regular education in this subject area.

The Executive Committee of the Judicial Council's Trial Court Presiding Judges Advisory Committee, on behalf of the full committee, submitted to the task force for consideration a white paper entitled, *The Role of the Presiding Judge in the Administration of Domestic Violence Cases in Our Courtrooms*. In this document, attached at page 45, the advisory committee supported the task force recommendations and emphasized the importance and role of the presiding judges in partnership with court executive officers in ensuring implementation of these recommendations. As stated in the white paper:

To ensure that courts comply with mandates promulgated to increase safety and accountability, the presiding judge and court executive officer should maintain a system of internal self-assessment and audits so that the court is continuously

¹ 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* (June 2005), p. 84.

monitoring its own progress. Perhaps more important, the local courts themselves, if they pursue a course of internal assessment, will be able to develop sound practice and procedures to voluntarily improve the administration of justice in these cases consistent with unique local structure and needs.

Task force recommendations relating to court leadership are as follows:

1. ***Court leadership.*** In order to improve public safety and promote public trust and confidence in the justice system, the presiding judge and court leaders should allocate adequate resources, including those for staffing and education, to ensure the fair and accessible adjudication of cases involving domestic violence allegations. The courts should engage in an ongoing process to develop, monitor, and evaluate procedures and protocols designed to improve the administration of justice in these critical cases.
2. ***Working with justice system entities and community organizations.*** As ethically appropriate, the court should participate in domestic violence coordinating councils or court-convened committees that provide an opportunity for justice system agencies and community organizations to comment on court practices and procedures relating to domestic violence cases, as well as providing a mechanism for improving these practices and procedures. Ethically appropriate councils or committees, at a minimum, (1) are inclusive in that representatives from all interests and sides of the litigation are invited to participate, (2) do not involve discussion of pending cases, (3) do not involve judicial officers in fundraising, and (4) do not involve judicial officers in lobbying for the adoption of legislative measures.
3. ***Use of temporary judges.*** To the extent feasible, the use of temporary judges to adjudicate cases that typically involve domestic violence allegations is discouraged. In no event should temporary judges preside over such cases unless they have received education concerning domestic violence cases.
4. ***Judicial education.*** Presiding judges should ensure that judges and subordinate judicial officers who perform duties in domestic violence matters receive regular training and education in this subject area. They should also ensure, under rule 10.462 of the California Rules of Court, that (1) each new trial court judge and subordinate judicial officer with an assignment in criminal, family, juvenile delinquency, juvenile dependency, or probate attend an orientation course in his or her primary assignment that contains a domestic violence session within one year of taking the oath of office and (2) unless he or she is returning to an assignment after less than two years in another assignment, each judge or subordinate judicial officer who is beginning a new primary assignment in criminal, family, juvenile delinquency, juvenile dependency, or probate complete a course in the new primary assignment that contains a domestic violence session within six months of beginning the new assignment.
5. ***California Courts Protective Order Registry (CCPOR).*** Each presiding judge and court executive officer should make accessible to judges the CCPOR, a Web-based,

statewide centralized system for viewing protective and restraining orders and related information.²

6. ***Court structure and calendars.*** Each court should consider whether to create dedicated domestic violence courts or specialized calendars based on the unique circumstances and characteristics of that jurisdiction and the resources available to it. In making the determination, the court should consider the optimal ways to:
 - a. Ensure ongoing evaluation and monitoring of practice and procedure in domestic violence cases;
 - b. Provide for trained staff and judicial officers;
 - c. Foster collaborative efforts to improve the administration of justice in domestic violence cases within the court and among other justice system agencies;
 - d. Promote procedural consistency; and
 - e. Enhance and increase accessibility to services for victims of domestic violence.

² A project under way at the Administrative Office of the Courts, the CCPOR is designed to make the full text of restraining and protective orders easily accessible to the judiciary, law enforcement, and other justice system partners.

Domestic Violence Prevention Act Restraining Orders

The task force circulated for comment draft recommended guidelines and practices for Domestic Violence Prevention Act (DVPA) restraining orders, focusing on those civil restraining orders issued by family courts in California. In some cases, juvenile and probate courts have issued DVPA orders. Additionally, civil restraining orders may be issued under other code sections, including Welfare and Institutions Code section 213.5.

Under the DVPA, a civil domestic violence restraining order can be a powerful tool to deter future violence, secure safe child custody and visitation arrangements, and provide temporary financial stability. However, a litigant must take numerous steps to secure and enforce a restraining order. Effective court practices play a crucial role in enhancing the ability of parties to obtain, understand, and comply with the orders. Additionally, courts need to ensure that these orders are issued in a timely manner, are accurate, and can be immediately entered into the California Law Enforcement Telecommunications System (CLETS) to assist in enforcement. Without focused attention on the development and implementation of effective court practices, courts can unwittingly be a barrier to instead of a facilitator of public safety.

The practices outlined below were developed from a review of national, state, and local publications; a review of existing court practices around the state; comments received through the public comment and hearing process; and discussions among members and staff of the task force.

The proposals address the restraining order process from the viewpoint of litigants, the court, and law enforcement with the goals of simplifying and streamlining procedures for litigants, improving communication within the court, increasing the availability of information to the judicial officer, and enhancing the enforceability of court orders.

Ultimately, the success of domestic violence restraining orders in reducing violence and increasing public safety depends on the efforts of California's network of public and private agencies. The proposals described here reflect that interdependency and encourage each agency to take steps to promote the courts' ability to improve the administration of justice.

Assistance for Parties (General)

1. ***Removal of barriers.*** Each court should review its practices and procedures generally and make changes designed to reduce barriers to court access for litigants in restraining order proceedings. Each court may consider working with community agencies in identifying barriers and developing practices.
2. ***Access to restraining orders.*** Courts should ensure that only those eligibility requirements required by statute or rule are imposed upon a litigant seeking to obtain a restraining order. To ensure public safety, any person can request a restraining order regardless of unrelated factors such as immigration status or alleged criminal conduct.

3. ***Information/resources for the parties.*** The court should inform the parties about resources that are available in restraining order proceedings in accordance with their requests and needs and under Family Code section 6343. That section requires courts, in consultation with local domestic violence shelters and programs, to develop a resource list of appropriate community domestic violence programs and services. The list must be provided to each applicant for a domestic violence restraining order. The resources should be available in English and other languages to the extent feasible and could include:
 - a. Legal services agencies and pro bono legal resources;
 - b. Child support services;
 - c. Administrative Office of the Courts (AOC) informational pamphlet and video;
 - d. Available victim-witness services or funding;
 - e. Appropriate referrals to community domestic violence programs and services, including batterer intervention programs;
 - f. Self-help services;
 - g. Other community services, including those providing immigration information.
4. ***Legal services.*** Each court should provide information to all parties about the availability of legal services and should explore options with the bar and other agencies to foster increased representation for parties in domestic violence restraining order cases.
5. ***Family law facilitator/self-help center.*** Additional funding should be provided for the family law facilitator or self-help center, if appropriate, to furnish services to all parties beyond those provided by the federally funded child support program. The facilitators and self-help centers should provide information and appropriate assistance to litigants on court practice and procedure in domestic violence cases. So that the parties have access to electronic domestic violence self-help software, facilitators and self-help centers should make every effort to make computers available for use by the parties in restraining order proceedings.
6. ***Counseling.*** Individuals seeking protection in domestic violence cases should not be ordered to attend counseling without careful consideration. Under existing law, a court may not order a protected party to obtain counseling without the consent of the party unless there is a custody or visitation dispute. (Fam. Code, § 3190.) In the event that the court orders counseling under Family Code section 3190, the court must make the requisite findings and should order separate counseling sessions under Family Code section 3192. Nonmandatory referrals to counseling or related services may be made and should be provided under the requirement of Family Code section 6343, which requires that courts develop resource lists for referrals to appropriate community domestic violence programs and services.
7. ***Confidentiality.*** Courts should (1) inform parties that most filed documents are public records and (2) provide information on how to safeguard certain kinds of information

such as addresses or confidential locations. (See for example, the Secretary of State's Safe at Home Program, www.ss.ca.gov/safeathome.)

Obtaining and Perfecting Orders

8. ***Emergency protective orders (EPOs).*** Each court should have a workable practice for obtaining EPOs to maximize accessibility. Each court should ensure that a judicial officer is available to law enforcement during both business and nonbusiness hours for review of applications for EPOs. Each court should also encourage and support law enforcement's use of the after-hours procedure for EPOs by using a duty judge system of rotation.
9. ***Reasonable and timely access to review of applications for temporary restraining orders.*** Each court should have a mechanism for reviewing each application for a restraining order "on the same day that the application is submitted to the court, unless the application is filed too late in the day to permit effective review, in which case the order shall be issued or denied on the next day of judicial business in sufficient time for the order to be filed that day with the clerk of the court." (Fam. Code, § 6326.) Courts should develop procedures to (1) ensure timely access at convenient court locations so that travel to the appropriate courthouse will not unduly burden the party seeking review of the application and (2) develop electronic mechanisms such as fax, e-mail, or videoconferencing to facilitate prompt review of the application.
10. ***Notice in ex parte proceedings.*** Courts should not have a blanket rule or policy regarding notice for every request for an ex parte restraining order. Notifying a proposed restrained person about an applicant's request for a restraining order can trigger a significant risk of harm to the applicant. As provided in Family Code section 6300, the court should determine *on a case-by-case basis*, depending on the circumstances, whether notice of an application for a temporary restraining order should be required, taking into account the level of danger to the applicant. In all cases, applicants should be referred to community services and should be advised of the National Domestic Violence Hotline (1-800-799-SAFE).
11. ***Right to hearing.*** A jurisdictionally adequate petition for an ex parte temporary restraining order under the DVPA may not be summarily denied. The court must either (1) grant the temporary orders requested and set the matter for a noticed hearing or (2) defer ruling on the matter pending a noticed hearing, in which case the court should consider whether failure to make any of these orders would jeopardize the safety of the petitioner and children. (*Nakamura v. Parker* (2007) 156 Cal.App.4th 327.) When no temporary order is issued, some petitioners may be concerned that their safety will be compromised if the court sets the matter for a noticed hearing. Therefore, the court should develop a procedure so that the petitioner is informed that he or she may withdraw the petition without prejudice to refile it at another time.

12. **Background checks.** To enhance public safety, wherever possible each court should conduct timely criminal background checks on the restrained party and conduct checks for other restraining and protective orders, involving either party, that can be considered by the judicial officer, both at the temporary restraining order stage and at the hearing on the application, as described in Family Code section 6306. However, lack of sufficient resources makes it impossible for some courts to conduct these checks, and significant challenges are associated with accessing and navigating the California Department of Justice’s (DOJ) databases. Therefore, the DOJ should work with the courts to make records easily accessible and reduce the length of time needed to check records. Courts should access the CCPOR, the statewide database containing images of restraining and protective orders.³
13. **Service of process.** Each court should collaborate with law enforcement and processing services to ensure timely and effective personal service of process of restraining orders and entry of proof of service into DVROS.
14. **Preparation and provision of restraining orders.** The court should ensure that an order is prepared and provided as soon as possible to all parties who are present at the proceeding.
15. **Past acts.** In reviewing applications for temporary restraining orders, there should be no rigid time frame for determining what constitutes a relevant “past act of abuse.” Such determinations should be made on a case-by-case basis.
16. **Availability of child and spousal support orders.** In a DVPA proceeding when child or spousal support is requested and financial documentation is submitted, the court should consider the request and order appropriate support at the same time as the restraining order request is considered or as soon thereafter as possible to ensure safety. (Fam. Code, § 6341(a) and (c).) Each court should establish a cooperative relationship with the Department of Child Support Services and take reasonable steps to expedite the award of child and spousal support in domestic violence cases.
17. **Availability of custody and visitation orders.** In a DVPA proceeding when child custody and visitation are requested and appropriate documentation is submitted, the court should consider the request and order custody and visitation to a party who has established a parent-child relationship under Family Code section 6323, as appropriate, at the same time as the restraining order. (Fam. Code, § 6340.) The court must consider whether failure to make any of these orders may jeopardize the safety of the petitioner and the children for whom the custody or visitation orders are sought. Each court should take reasonable steps to expedite the determination of custody and visitation in domestic violence cases.

³ See footnote 2.

18. ***Additional protected persons.*** When the court issues a restraining order, it should consider whether the order should apply to other named family or household members if good cause is demonstrated. (Fam. Code, § 6320.)
19. ***Supervised visitation.*** There is a need for greater availability of affordable supervised visitation and safe exchange programs. As a result, every court should encourage the establishment of a facility or provider of supervised visitation and safe exchange services in the county so that in appropriate cases, each party to a restraining order proceeding who has children has access to supervised visitation and safe exchanges. To the extent feasible, the number of multilingual and multicultural programs should be increased.
20. ***Orders generally.*** The court shall consider the application for a DVPA restraining order and may issue all appropriate orders without requiring corroborating evidence. As long as the court does not issue a conflicting order, it should consider the application even when a criminal protective order (CPO) exists. This maximizes safety and enables the court to consider custody and visitation.
21. ***Residence-exclusion orders.*** When a court issues a residence-exclusion order, the court should consider implementing a protocol that allows the respondent to collect his or her belongings without violating the order.
22. ***Termination or modification of a restraining order.*** If a litigant requests termination or modification of a restraining order, the court should conduct a hearing to determine if the request is entirely voluntary and not a result of coercion or duress and to make sure the person making the request is in fact the protected party. The court should consider deferring ruling on the request to allow the protected person time to discuss the request for termination or modification with a support person.

Hearings and Services

23. ***Staffing.*** The court should assign and manage appropriate staff in domestic violence cases to perform the following duties:
 - a. Streamline procedures;
 - b. Promote safety in the courthouse;
 - c. Coordinate court processes and case information;
 - d. Provide information to the court regarding existing protective orders and orders in cases involving child custody or visitation;
 - e. Serve as liaison with law enforcement, treatment services, Children's Protective Services, victim assistance, advocates, probation departments, and other relevant agencies; and
 - f. Participate as ethically appropriate in local family violence coordinating councils or court/community practice and procedure committees.

24. ***Court interpreters.*** Each court should provide interpreters in domestic violence cases, in family court services mediation sessions, and in self-help centers.⁴ Each court should analyze its calendaring mechanisms to maximize the availability of court interpreters in domestic violence cases.
25. ***Training for court interpreters.*** Each court should ensure that training for court interpreters includes information about the nature of domestic violence cases and the need for unbiased handling of interpretation in these cases. The AOC should provide support and curricula for developing the training.
26. ***Services.*** The court, in collaboration with community justice partners, should assess community resources, examine any gaps in resources, and inform appropriate officials accordingly, with the goal of increasing available resources for litigants in domestic violence cases.
27. ***Self-represented litigants.*** Each judge hearing domestic violence restraining order proceedings should conduct appropriate dialogue with self-represented litigants to clarify facts and explain the court's procedures as necessary in the specific case.
28. ***Scheduling hearings.*** The court should adhere to the statutory time periods for setting hearings on restraining orders, should endeavor to expedite these proceedings whenever possible to promote public safety, and should avoid unnecessary delays and continuances.

Court and Case Management

29. ***Local procedures.*** To the extent that a court promulgates policies or procedures relating to restraining order proceedings, the procedures should be in written form and made accessible to the public.
30. ***Calendar management.*** If a court determines that a dedicated DVPA calendar is not warranted in the jurisdiction, the court should ensure that:
- a. There is a mechanism to identify all domestic violence cases to better provide services and staff; and
 - b. Domestic violence matters are given calendar priority to ensure safety and convenience of litigants.
31. ***Court coordination.*** Each court must develop a local rule, as required by rule 5.450 of the California Rules of Court, providing a procedure for communication among courts issuing criminal court protective orders and courts issuing orders involving child custody and visitation. Under rule 5.450, the local rule also must include a procedure for modification of a CPO in consultation with the court issuing a

⁴ Courts should access the Administrative Office of the Courts grant program to fund interpreters in these proceedings. The task force acknowledges the that there is a lack of certified interpreters for some languages in some locations.

subsequent child custody and visitation order. The procedures should include methods for safeguarding confidential information and provide a mechanism for identifying related cases, orders, court dates, and information regarding children and for determining how to best provide appropriate information to judicial officers. The information should be integrated into the court's case management system.

32. **Court communication.** Each court should have a mechanism for internal court communication on practice and procedure in domestic violence cases suitable for the court size and caseload. For example, courts may conduct meetings of judicial officers with criminal, juvenile, and family law assignments.
33. **Training.** Each court should endorse and ensure periodic training for all court personnel and judicial officers who are involved in domestic violence cases appropriate to their assignments. The court should also regularly provide information to bench-bar groups about court practice and procedure relating to domestic violence cases.
34. **Statistics.** Each court should maintain domestic violence statistics, including the number of EPOs issued, temporary restraining orders requested and granted, orders granted after hearing, children involved, reissuances, and proofs of service filed. Court case management systems should support collection of this data.
35. **Facility security.** To handle those cases involving domestic violence, each court should develop reasonable safety procedures. These procedures should address, but are not limited to, the following: (1) making reasonable efforts to keep residential addresses, work addresses, and contact information—including but not limited to telephone numbers and e-mail addresses—confidential in all appropriate cases and on all appropriate documents; (2) ensuring that a trained security officer is present in the courtroom; (3) providing safe ways to depart from the courthouse, such as safe waiting areas, elevators, stairwells, hallways, entrances and exits, and parking; and (4) providing escorts for victims when needed and as feasible. Courts should consider the requirements of Government Code section 69920 et seq. and rule 5.215(i)(2) of the California Rules of Court when designing facilities.
36. **CLETS/DVROS.** As required by Family Code section 6380, each court should ensure that all required domestic violence restraining orders and proofs of service as defined under Family Code sections 6218 and 6320 are entered into the DVROS via CLETS within one business day and memorialized on mandatory Judicial Council forms. The statutory scheme contemplates that these orders should be entered into DVROS so that law enforcement agencies will have access to the orders, thus maximizing enforcement. Moreover, under federal law (see generally 18 U.S.C. § 44), any order that purports to prohibit specific threatening conduct carries with it mandatory firearms restrictions that should not be obviated by a state court or by stipulation of the parties.

37. ***Non-CLETS domestic violence restraining orders.*** Courts should decline to approve or make domestic violence⁵ restraining orders that cannot be entered into DVROS or CLETS, commonly referred to as “non-CLETS” orders.

⁵ Domestic violence in the civil context is defined as abuse or conduct that is described in Family Code sections 6203 and 6320 that has been perpetrated against an intimate partner, as defined by Family Code section 6211.

Firearms Relinquishment

California and federal law bars persons subject to restraining orders, as well as defendants convicted of certain crimes, from possessing or purchasing firearms or ammunition,⁶ and compliance with these laws can reduce domestic violence homicides.⁷ Court orders to relinquish firearms, however, are not self-implementing. Persons protected by restraining orders may erroneously believe that when the court orders the restrained person to relinquish firearms, either law enforcement or the courts will take steps to ensure that the order is followed. But under California law, the onus is on the restrained person to comply by relinquishing firearms to law enforcement or selling them to a licensed gun dealer.⁸ Experts report that some gun owners are extremely reluctant to comply.⁹

The following proposals were developed by the task force from a review of national and state publications; task force staff discussions with law enforcement officials; and a colloquium held in April 2006 by the California AOC involving judicial officers and court staff, justice system entities, and domestic violence victim advocates. The proposals reflect the limited reach of the courts, particularly in family law cases.

Clearly, implementation of these proposals and, for that matter, enforcement of firearm prohibition laws will require the concerted actions of law enforcement officers, prosecutors, the defense bar, the courts, probation and parole officers, and victim advocates. It is important to note, however, that California's courts are severely circumscribed by legal and practical considerations in their ability to ensure that restrained persons do not possess or have access to firearms or ammunition.

Ultimately, public safety is best served when law enforcement and the entire justice system take immediate action to remove firearms, whether registered or not, from the hands of a person who is statutorily barred from possessing them. The courts have a necessary and important role in achieving this goal, but because they are not investigative or enforcement agencies, the courts must rely on justice system entities to provide necessary information and to enforce compliance with firearm relinquishment orders.

It is with these factors in mind that the task force proposes the following guidelines and practices.

⁶ See, for example, Family Code section 6389; Penal Code section 136.2; 18 U.S.C. 922(g)(8); and 18 U.S.C. 922(g)(9).

⁷ Saltzman, L. et al. "Weapon involvement and injury outcomes in family and intimate assaults" (1992) *Journal of the American Medical Association* 267(22):3,042–3,047.

⁸ See section 6389(c)(2) of the Family Code.

⁹ Testimony provided at the task force public hearing on March 14, 2007.

Communication and Education

1. ***Communication with local justice system entities.*** Each court should regularly communicate with appropriate local justice system entities, including law enforcement, prosecutors and defense attorneys, domestic violence victim advocates, and the bar, to develop and monitor local firearm relinquishment protocols and procedures.
2. ***Communication with state justice system entities.*** The AOC should establish an ongoing working group with appropriate statewide justice system entities to communicate about and support improvements to statewide and local firearm relinquishment forms, protocols, and procedures.
3. ***Identification of law enforcement and gun dealer policies.*** Courts should make reasonable efforts to learn about the existence and location of local gun dealers and about local law enforcement's relinquishment policies and gun dealers' sale policies, including fees for storage.
4. ***Court access to state and federal firearms databases.*** The DOJ should make every effort to encourage and improve court access to state and federal firearms databases.

Legislation and Rules of Court

5. ***Firearms search in Automated Firearms System (AFS) conducted by the prosecutor.*** Legislation should require prosecutors to perform a database search of the defendant's registered firearms and provide that information to the court as currently set forth in Penal Code section 273.75.
6. ***Firearms search in AFS conducted by the court.*** Family Code section 6306 should be amended to provide express authority for the courts to search the firearms database. Funding should be made available to the courts for implementation.

Procedures

Emergency protective orders

7. ***Court inquiry.*** Prior to issuing an EPO under Family Code section 6240 et seq., the on-call judge should ask the law enforcement officer who is requesting the order if the officer has inquired of the victim, alleged abuser, or both, whether a firearm is present at the location. (Pen. Code, § 13730.)¹⁰

Criminal court protective orders

8. ***Firearms inquiry conducted by the prosecutor in conjunction with law enforcement.*** At or before the time of arraignment, the prosecutor and law enforcement should conduct a firearms search on the defendant through AFS and any other appropriate databases and sources and provide the results to the court at arraignment.¹¹ Any inability to provide the court with timely information should not delay the issuance of an order. If the court finds reason to believe that the defendant owns or possesses a firearm, the court should instruct the prosecutor to make reasonable efforts to notify the victim or witness of the court's finding.¹²
9. ***Oral advisement of firearm restrictions.*** The court should orally advise the defendant about state and federal firearms and ammunition prohibitions and the requirement for timely relinquishment.

¹⁰ Penal Code section 12028.5 requires a law enforcement officer to take temporary custody of any firearm or other deadly weapon in plain sight or discovered as the result of a consensual or other lawful search as necessary for the protection of the peace officer or other persons present, when the officer is at the scene of a domestic violence incident involving a threat to human life or a physical assault. Moreover, if the court issues an EPO, the law enforcement officer who requested the order is required to serve the EPO on the restrained person, if the restrained person can reasonably be located, and then use every reasonable means to enforce the EPO, including firearms restrictions. (See Fam. Code, §§ 6271, 6272; Pen. Code, § 12021(g)(2).)

¹¹ Section 273.75 of the Penal Code currently requires the district attorney or prosecuting city attorney to perform a database search of the defendant's history, including but not limited to prior convictions for domestic violence, other forms of violence or weapons offenses, and any current protective or restraining order. The information shall be presented for consideration by the court (1) when setting bond or when releasing a defendant on his or her own recognizance and (2) upon consideration of any plea agreement. The databases include the Violent Crime Information Network, the Supervised Release File, state summary criminal history information maintained by the DOJ, the Federal Bureau of Investigation's nationwide database, and locally maintained criminal history records. The statute should be revised to require a search in the AFS database.

¹² Section 11106(d) of the Penal Code authorizes prosecutors to release AFS information to victims of domestic violence in some cases.

10. ***Set review hearing.*** The court should ask the prosecutor if he or she has reason to believe that the defendant owns or possesses a firearm or ammunition. If the court finds there is reason to believe that the defendant owns or possesses a firearm or ammunition, the court should set a review hearing within 48 hours of service of the protective order on the defendant to determine whether a relinquishment or sale receipt was filed. (Code Civ. Proc., § 527.9.) The court may wish to set the review hearing within 24 hours of service when logistically feasible. The court should order the restrained person to personally appear at the review hearing unless a sale or relinquishment receipt is filed within the statutory time frame.¹³ If the restrained person indicates under oath that he or she no longer owns or possesses any firearms that are entered in his or her name in the AFS database, the court should order the restrained person to submit form FD 4036, *Notice of No Longer in Possession* (NLIP), to the DOJ. The court should order the restrained person to submit a report of an allegedly lost or stolen firearm to local law enforcement and present proof of the report to the court. When the court has reason to believe that the defendant still owns or possesses a firearm or ammunition, even if the restrained person has filed a receipt, NLIP, or other type of sale or relinquishment notice, the court should consider holding a review hearing.
11. ***Appropriate orders at the hearing.*** If no receipt, NLIP, or other notice has been filed or provided and the defendant appears in court at the scheduled hearing, the court should hold a hearing on the firearms issue and (1) issue a search warrant if one is requested, provided the court finds probable cause, (2) increase bail, (3) revoke release on own recognizance (OR), or (4) set a probation revocation hearing. If no receipt, NLIP, or other notice has been filed or provided and the defendant does not appear for the court hearing, the court should issue a no-bail bench warrant.

Civil court restraining orders

12. ***Database search for registered firearms conducted by the court.*** The court (through sheriff, court, or pretrial services) should conduct a firearms search on the proposed restrained person through AFS or another appropriate database prior to issuing a restraining order (including a temporary restraining order). However, failure or inability to conduct the firearms search should not delay issuance of an order.
13. ***Note of reported firearms on restraining order.*** If firearms, whether registered or not, are reported to the court through an AFS database search or by the protected party, the court should so indicate on the temporary restraining order and order after hearing.
14. ***Oral advisement about firearm restrictions.*** The court shall inform parties of the terms of the restraining order, including notice that the restrained person is prohibited

¹³ This proposal would necessitate an evidentiary hearing to determine whether the defendant owns or possesses a firearm. The defendant could invoke the Fifth Amendment right not to incriminate himself or herself.

from owning, possessing, purchasing, receiving, or attempting to own, possess, purchase, or receive a firearm or ammunition, including notice of the penalty for violation. (See Fam. Code, § 6304.)¹⁴

15. ***Development of Failure to Relinquish or Sell Firearms notification form.*** Upon the court's issuance of a DVPA order at a hearing where the respondent has been provided notice and an opportunity to be heard, the court should determine whether the restrained person owns or possesses firearms or ammunition. If the court finds that the restrained person does own or possess a firearm or ammunition, the court should notify law enforcement for appropriate action.¹⁵ The AOC, in consultation with the DOJ and other agencies as appropriate, should develop a form and procedure to ensure the timely notification of law enforcement entities about the court's finding.

Forms

16. ***Firearm relinquishment information sheet.*** The Judicial Council of California has developed a statewide information sheet to explain to restrained persons how to safely and legally relinquish or sell firearms when so ordered. To encourage the widest possible use of this form, the AOC should revise the form so that it is locally modifiable and can be used with all types of protective orders, as well as for criminal sentencing following convictions for offenses that require firearm relinquishment.¹⁶ The form should include information about the requirement to file a relinquishment or sales receipt with the court, and it should explain the NLIP form and the method to report a lost or stolen firearm. The court should provide the information sheet to all persons who are prohibited from owning or possessing firearms or ammunition because of a court order or criminal sentence.

¹⁴ The firearms prohibition of Family Code section 6389(a) “automatically activates . . . when a court imposes or renews any of the enumerated forms of protective orders.” (*Ritchie v. Konrad* (2004) 115 Cal.App.4th 1275, pp. 1,294–1,295.) The court is “[unable] to eliminate the firearm restriction while a protective order remains in place” except in very limited circumstances that are specifically authorized by Family Code section 6389(h). (*Id.* at 1,300.)

¹⁵ This practice is intended for a DVPA-noticed hearing that is held after the court has issued temporary restraining orders on *Temporary Restraining Order and Notice of Hearing* (form DV-110). Where the court has not issued temporary orders but has issued restraining orders only after a noticed hearing, the court (at the noticed hearing) should determine whether the restrained person owns or possesses a firearm or ammunition. If the court finds that the restrained person owns or possesses a firearm or ammunition, the court should set a compliance hearing to determine whether the restrained person has sold or relinquished the firearm or ammunition. If the restrained person does not comply with the court's relinquishment order, the court should notify law enforcement for appropriate action.

¹⁶ See Judicial Council form, *What Do I Do With My Gun or Firearm? (Domestic Violence Prevention)* (form DV-810).

17. ***Revision of restraining and protective order forms to add check box for reported firearms.*** All temporary and permanent restraining and protective orders should indicate whether firearms were reported and whether the report was obtained through a database search or from a protected person's declaration or other information presented at a hearing.
18. ***Revision of EPO form to indicate reported firearms.*** The EPO form should be revised to include a check box for law enforcement to indicate whether firearms were reported by any person at the scene (under Pen. Code, § 13730) or discovered in a database search.

**Access to and Entry of Orders Into the
Domestic Violence Restraining Order Systems (DVROS)/
California Law Enforcement Telecommunications System (CLETS)**

Courts are required either to transmit criminal and DVPA restraining orders to a local law enforcement agency or to directly enter the orders into DVROS within one business day. (Fam. Code, § 6380; Pen. Code, § 136.2.) DVROS is a statewide database maintained by the DOJ that is designed to store restraining and protective order information. DVROS is one of many databases housed in CLETS, and when approved by DOJ, it is accessible by law enforcement personnel, court personnel, and other appropriate agencies 24 hours a day, seven days a week.

The DOJ controls access to CLETS and thus to DVROS, and each superior court must apply to the DOJ for access. Currently, only seven trial courts have direct entry access to DVROS via CLETS. Early in the task force's work, members of the task force expressed concerns about the arduous application process. This process has been somewhat streamlined since the AOC obtained approval from the DOJ to access DVROS and other CLETS databases. However, each court is still required to submit an application requesting access via the AOC's portal. To date, four courts have gained access to DVROS/CLETS in this manner. The AOC will continue to help facilitate the application process to reduce processing time.

The 2005 report from the California Attorney General's Task Force on Local Criminal Justice Response to Domestic Violence, *Keeping the Promise: Victim Safety and Batterer Accountability*, notes that law enforcement cannot enforce a criminal or DVPA restraining order if it cannot determine at the time of an alleged violation whether the order is still in effect. Thus it is imperative that all orders are entered into DVROS accurately and in a timely manner. Because few courts have access to DVROS, the courts, local law enforcement, prosecutors, and probation departments must work together to ensure that restraining orders are entered into DVROS.

In response to the Attorney General's task force report, on June 21, 2006, the AOC hosted a CLETS Access Forum. This forum provided an opportunity for the courts entering restraining orders to demonstrate their individual operations and to explain the obstacles, challenges, and achievements they experienced during the process of obtaining CLETS approval. To maintain a representative balance, additional small, medium, and large courts were invited. Each participating court was encouraged to send a team consisting of the executive officer and representatives from information systems and operations. Information was distributed to the program participants about the role of the AOC in providing technical assistance to the courts interested in improving CLETS access as well as the long-term objective of automating the process of entering orders into CLETS via the case management system.

At the forum, the Superior Court of Orange County presented a Web-based restraining order registry that it has developed. The task force found this registry of particular interest, and as a result, the AOC began an inquiry to determine whether a similar registry

could be launched statewide. The AOC is now developing the California Courts Protective Order Registry (CCPOR), a centralized system designed to allow bench officers and law enforcement to view protective and restraining orders and related information. Many other courts have developed countywide restraining order registries, some components of which will be incorporated into the statewide system.

The presentations, small group discussions, and large group plenary sessions in the CLETS Access Forum served as a foundation for the proposals set forth below, which are presented as immediate, interim, and long-term goals. These goals encompass the vast array of ideas, concepts, and needs as discussed by the courts. Courts are encouraged to adopt as many goals as necessary for their operational needs.

Immediate Proposals

1. ***Access to CLETS.*** Each court must have access to the DVROS database and to other databases within CLETS, such as AFS and the firearms registry, as deemed necessary by the court or as required by statute for the purpose of performing data searches and to ensure compliance with rule 5.450 of the California Rules of Court.
2. ***Needs assessment.*** Each court should evaluate current procedures, protocols, and timelines for processing restraining orders, from the granting of the order to its entry into DVROS, and whether the court enters the orders directly or transmits the orders to law enforcement for entry into DVROS. The court should ensure that all orders are being entered into DVROS promptly and are consistent with all statutory requirements. If delays or inconsistencies are discovered, the court should take all necessary steps to eliminate them by enhancing procedures and protocols. Courts should periodically review the assessments to ensure that procedures and protocols remain current.
3. ***Communication: Court and justice partners.*** Courts should hold regular meetings with local law enforcement and other related justice partners to monitor procedures and to review operations to ensure consistency and accountability in handling restraining orders. The courts and the law enforcement agencies responsible for entering the orders into DVROS should develop plans to ensure that orders, proofs of service, and modifications are entered into DVROS promptly and are consistent with all statutory requirements.
4. ***Communication: AOC and DOJ.*** The AOC and the DOJ should establish a user group that conducts regular meetings to review policy and practices regarding entry of restraining orders. This review team could also assist in establishing standards for training, audit practices, and implementation.
5. ***Implementation standards.*** The AOC and local courts should recommend that the DOJ streamline the CLETS application process and establish implementation standards statewide to eliminate barriers to court access to DVROS.

6. ***Audit standards.*** Courts that have access to CLETS are subject to periodic audits by the DOJ to monitor how the court safeguards the database information. The AOC and local courts should recommend that the DOJ standardize CLETS audit procedures statewide.
7. ***Training standards.*** The AOC and local courts should recommend that the DOJ establish a training program unique and specific to the needs of court staff who handle restraining orders. Local courts should ensure that staff receive adequate training, including access to CLETS-related training and informational Web sites.
8. ***Data collection.*** The AOC should provide the courts with guidelines for collecting domestic violence statistics. Each court should maintain domestic violence statistics to better inform the justice system and to support the development of domestic violence policy. Statistical information should be available regarding the number of EPOs issued, the number of temporary restraining orders requested and granted, the number of restraining orders granted after hearing, the number of children involved, proofs of service filed, and the number of reissuances. The AOC should encourage participation in its Judicial Branch Statistical Information System (JBSIS), and design of the California Court Case Management System (CCMS) should incorporate the required statistical information.

Interim Proposals

9. ***Restraining order registry.*** Courts are encouraged to participate in the CCPOR when it becomes available.¹⁷ This will provide the judicial branch and law enforcement with the ability to access and view full-text orders issued throughout the state. CCPOR should be included in the design of the CCMS.
10. ***Computer-generated orders.*** The AOC should continue to explore the design of computer-generated orders that will be able to interface with the CCMS, and it should also evaluate existing forms for ease and accuracy of data entry. Local courts are encouraged to explore the feasibility of using the Judicial Council's Family and Children's Court Technology (FACCTS) to produce computer-generated orders after hearing.
11. ***Service of orders.*** Using a collaborative process with justice system partners, each court should evaluate ways to improve procedures for prompt and effective service of orders and take steps to facilitate prompt service and entry of service into DVROS.

Long-Term Proposals

12. ***Integration with CCMS.*** The AOC and local courts should work together to establish a seamless process from the point that the order is granted to its entry in DVROS, using an automated process that is integrated into the CCMS. AOC staff should work

¹⁷ See footnote 2.

together to ensure that relevant domestic violence information is included in the CCMS data elements.

Domestic Violence Criminal Procedure

The June 2005 report to the California Attorney General from the Task Force on Local Criminal Justice Response to Domestic Violence, entitled *Keeping the Promise: Victim Safety and Batterer Accountability*, outlines a series of problematic practices and recommendations relating to the adjudication of criminal domestic violence cases. Among these are the following highlights, which point out systemic problems but also pertain primarily to court practice and procedure:

- Arraignment, plea, and sentencing without prosecutors in attendance;
- Sentences that appear to be out of compliance with Penal Code section 1203.097 relating to mandatory terms and conditions of probation;
- Widespread apparent failure to complete batterer intervention programs; and
- Asserted inadequacy of monitoring and follow-up regarding compliance with terms and conditions of probation.

The task force looked at the entirety of criminal procedure in domestic violence cases, from filing through postconviction proceedings. The following proposals are the result of the task force inquiry. They seek to address issues raised in the 2005 report and to improve practices in these cases generally. The proposals include mandatory provisions required by statute or rule as well as advisory practices. The proposals, taken as a whole, form a useful chronology of required and aspirational practices for the criminal law judicial officer in domestic violence cases.

We note that implementation of the statutory framework underlying Penal Code section 1203.097 depends on adequate funding and full functioning of county probation departments as necessary to ensure the defendant's opportunity to successfully complete probation. Because the successful completion of probation directly and positively affects public safety and the safety of domestic violence victims, the presence of fully funded probation services in each jurisdiction is a necessary element of an effective criminal justice response to domestic violence. Although neither the Judicial Council nor the task force has direct authority for the funding of probation services, the task force submits that without increased and adequate funding of this vital component, full accountability for domestic violence offenders placed on probation will remain elusive.

Recommended guidelines and practices in the area of criminal procedure follow.

Administration Procedures

1. ***Administration of criminal domestic violence cases.*** Each court should ensure that the following administrative procedures are followed with respect to domestic violence cases:
 - a. The judicial review of the bail schedule should include consideration of issues relating to domestic violence;
 - b. The court should collaborate with the chief probation officer to ensure that the functions of probation delineated in Penal Code section 1203.097 are adequately performed, including duties to monitor the defendant's compliance with the

- terms and conditions of probation and to certify batterer intervention programs;
and
- c. In conjunction with the duties enumerated in rule 227.8 of the California Rules of Court, the court should ensure that issues relating to practice and procedure in domestic violence cases are identified and discussed in regular meetings with criminal justice agencies. Additional participants in the regular meetings should include both victim advocacy organizations and local batterer intervention programs to ensure communication and consultation between the court and the organizations involved in probation of convicted batterers.
 - d. In accordance with Penal Code section 136.2(e)(1), the court's records of all criminal cases involving domestic violence shall be marked to clearly alert the court to consider issuance of a protective order on its own motion.

Pretrial

Bail release considerations

2. ***Bail schedule.*** Every county must adopt and review a bail schedule. (Required by Pen. Code, § 1269c.)
3. ***Standardized procedure.*** To enhance public safety in domestic violence cases, local courts should work with probation, pretrial services, and law enforcement agencies to develop a standardized procedure for setting bail so that the court receives the following information: (1) requests for increased bail, (2) indication of relationship between defendant and victim, (3) indication of whether a firearm was involved, (4) description of weapons seized, (5) sources of information regarding crime and firearms present, and (6) indication of whether children were involved or were witnesses.
4. ***Law enforcement policy.*** For all domestic violence arrests, law enforcement should adopt a policy that does not allow own recognizance (OR) or cite and release procedures unless a court hearing is conducted. (Pen. Code, § 1269c, requests for increased bail.)

Hearing procedures

5. ***Hearing purposes.***
 - a. Under Penal Code section 1270.1(a), at arraignment or at any other stage of the proceedings, bail must not be reduced and release on OR must not be granted without a hearing for any person charged with:
 - Penal Code section 136.1: Intimidating a witness;
 - Penal Code section 243(e)(1): Battery against a spouse, cohabitant, person who is the parent of the defendant's child, noncohabitating former spouse, fiancée, or a person with whom the defendant currently has or has previously had a dating relationship;
 - Penal Code section 262: Spousal rape;
 - Penal Code section 273.5: Corporal injury;

- Penal Code section 273.6: Knowing violation of a protective order under specified circumstances;
 - Penal Code section 422: Felony violation of a threat to an immediate family member; or
 - Penal Code section 646.9: Stalking.
- b. The prosecution must be afforded two court days' written notice of the hearing and an opportunity to be heard. (Pen. Code, § 1270.1(b).)
 - c. If bail is otherwise set than is provided in the bail schedule, the record must reflect the reasons for the court's decision and address the issue of threats to the victim and victim safety. (Pen. Code, § 1270.1.)
6. **Local variations.** The timing and procedures for setting bail and the bail amount may vary from jurisdiction to jurisdiction, but the court should nevertheless obtain all relevant information.
 7. **Appearance within 48 hours.** If bail is posted, the defendant should be directed to appear within 48 hours for arraignment.

Arraignment

8. **Defendant's appearance.** Defendant's presence at arraignment is mandatory. (Required by Pen. Code, § 977.)
9. **Procedures.** Practices recommended to assist the court in determining whether to issue a CPO and in setting bail include the following:
 - a. Defense counsel and prosecution should be present at arraignment;
 - b. All probation violations should be calendared with the arraignment to ensure that the court revokes probation as appropriate;
 - c. Prosecution, OR services, or the probation department, as appropriate, should contact the victim prior to arraignment;
 - d. Gun ownership should be determined from DOJ records;
 - e. Issuance of a CPO should be considered; and
 - f. Firearms relinquishment should be ordered. (Pen. Code, § 136.2(7)(B).)

Setting bail

10. **Bail sufficient to ensure appearance and protect victim.** If the defendant is arrested for violating a domestic violence restraining order, the court may deny bail or set bail at any amount that it deems sufficient to ensure the defendant's appearance or the protection of the victim or the victim's family members. (Pen. Code, § 1269c.)
11. **Notice to prosecutor.** When a defendant charged with Penal Code section 646.9 is released on bail, the sheriff must notify the domestic violence unit of the prosecutor's office in the county where the victim resides. (Pen. Code § 646.9(a).)

12. **Notice to victim.** If there is a request to lower bail, the prosecutor must make all reasonable efforts to notify the victim, and the victim is entitled to attend the hearing. The court should inquire whether the prosecutor has been successful in notifying the victim. (Pen. Code, § 646.93(b).)
13. **Additional conditions.** The court may consider imposing additional conditions. For example:
- Defendant cannot initiate contact with the victim;
 - Defendant cannot initiate contact with the children;
 - Defendant must not knowingly go within a specified distance of the victim or his or her workplace or home;
 - Defendant must not knowingly go within a specified distance of the children's school;
 - Defendant must not possess a firearm;
 - Defendant must obey all laws;
 - Defendant may be obligated to wear an electronic monitoring device;
 - Defendant must notify the court of his or her address and telephone number at home and work (Pen. Code, § 646.93(c));
 - Defendant must refrain from the use of alcohol or other drugs; and
 - Defendant must report to the court all law enforcement contacts.
14. **Factors in setting, modifying, or denying bail.** The court should consider the following factors:
- Seriousness of offense charged;
 - Defendant's character (previous criminal record);
 - Probability of defendant appearing at hearing or trial;
 - Alleged threats to the victim or to a witness to the crime charged;
 - Alleged use of a firearm or other deadly weapon in the commission of the crime charged; and
 - Alleged use or possession of a controlled substance by the defendant. (Pen. Code, § 1269b.)
15. **Relevant information.** Whenever bail is set, reduced, increased, or denied, the court should attempt to obtain and review all relevant information. This includes:
- All other pending cases, including probation violations as a result of this case;
 - Rap sheet and probation or parole status;
 - Existing and previously issued protective or restraining orders where the defendant is the restrained party;
 - Any prior failures to appear;
 - Statements by victims;
 - Whether children were present or if there are visitation issues;
 - All information about the status of family, juvenile, probate, or other court orders that may exist;
 - Firearms registry information from AFS;
 - Prior unreported incidents of domestic violence; and
 - Use of alcohol or drugs or prior history of mental illness.

Release on own recognizance (OR)

16. ***Investigative report.*** In all cases involving violent felonies, if there is an investigative staff, a written report is required to be given to the court concerning outstanding warrants, any prior failures to appear, the criminal record of the defendant, and the defendant's residences during the last year. (Pen. Code, § 1318.1.) Funding for such staff should be provided.
17. ***Reasons for deviation from schedule.*** If bail is set in an amount other than that provided for in the bail schedule, the record must reflect the reasons for the court's decision.

Issuing CPOs pretrial

18. ***Grounds for order.*** A stay-away order should be issued when it is shown that there is good cause to believe that harm to, intimidation of, or dissuasion of a victim or witness has occurred or is likely to occur. The order should be issued on the required Judicial Council form (CR 160). (Pen. Code, § 136.2.) (Note that in *People v. Stone* (2004) 123 Cal.App.4th 153, the court required additional evidence that a victim or witness had been intimidated or dissuaded from testifying or that there was a likelihood that it would occur. It is not clear whether this would apply in a case involving a domestic violence crime. Although *People v. Stone* may be distinguishable in domestic violence cases, the question has yet to be addressed in a published opinion.)
19. ***Reasonable restrictions.*** The court must consider issuing protective orders on its own motion. The court may impose reasonable restrictions, including restricting the defendant's access to the family residence and barring communication by the defendant or defendant's agent with the victim, except through an attorney. (Pen. Code, § 136.2(d).)
20. ***No-contact orders.*** No-contact orders may be issued in domestic violence cases as a condition of release on OR and as an independent order. (Pen. Code, §§ 1275, 1318 (a)(2), or 136.2.)
21. ***Additional considerations.*** In addition to the considerations listed above in "Setting bail," the court should consider the following:
 - a. Ascertain whether the defendant has any firearms;
 - b. Determine if the CPO conflicts with the family court order and advise the defendant that the criminal order controls;
 - c. Serve the CPO on the defendant and the victim, if present, in open court. If the protected party is not present in court, the court should request the prosecutor to mail a copy of the order to the protected party; and
 - d. Advise the defendant that violation of the CPO may result in additional charges and in immigration consequences.

Trial

Trial setting

22. ***Case management.*** After arraignment, the court should set a pretrial conference, at which the court should consider the following:
- Settlement;
 - Issuance of a stay-away order under Penal Code section 136.2 if there have been new threats or intimidation;
 - Changes in bail, if appropriate;
 - Any new information disclosed by counsel; and
 - Setting the case for preliminary hearing or misdemeanor jury trial.

Continuances

23. ***Good cause.*** Good cause for continuance in domestic violence cases includes unavailability of the prosecutor because of a conflict with another trial, preliminary hearing, or motion to suppress. The continuance must be limited to a maximum of 10 additional days. (Pen. Code, § 1050(g)(2).)
24. ***Facts supporting good cause.*** The court must state on the record facts constituting good cause for a continuance. (Pen. Code, § 1050(f).)
25. ***Continuances are discouraged.*** Domestic violence cases should have high priority. Continuances are strongly discouraged, and motions for continuances must comply with the requirements of Penal Code section 1050.

Dismissal/Refiling

26. ***Refiling within six months.*** If the court dismisses a misdemeanor domestic violence case because the victim failed to appear in response to a subpoena, the case may be refiled within six months. This section may be invoked only once in each action. (Pen. Code, § 1387(b).)

Evidentiary issues

27. ***Confidential communications.*** Communications between the victim and the domestic violence counselor are confidential. The following factors are to be considered by the court to determine whether a person qualifies as a domestic violence counselor:
- Is the person: employed by an organization under Welfare and Institutions Code section 18294?
 - Does the person have any of the following:
 - Master's degree in counseling or a related field;
 - One year of experience in counseling (a minimum of six months must be in domestic violence counseling);
 - Credentials as a psychotherapist under Evidence Code section 1010; or
 - Experience as an intern, trainee, or other person with a minimum of 40 hours of domestic violence training under someone with a master's degree in counseling or a related field or someone who has one year of counseling

experience, of which a minimum of six months is in domestic violence counseling. (Evid. Code, § 1037–1037.7.)

28. **Evidentiary exclusion of privileged information.** At the trial or preliminary hearing, the court may exclude privileged information from a domestic violence counselor on its own motion if neither the witness nor the party can claim the privilege. (Evid. Code, § 916.) The court should ask the prosecutor if there is any undisclosed statement for which the privilege is asserted. If the victim has not authorized the prosecutor to assert the privilege or is not present to make the assertion, the prosecutor can assert the privilege under Evidence Code section 916. (Evid. Code, § 1040(b)(2).)
29. **Burden of proof.** The claimant of a privilege has the burden of proving (a) the existence of the relationship, (b) standing to claim the privilege, and (c) that the offered evidence is a confidential communication within that relationship. (Evid. Code, § 1037.)
30. **Disclosure prohibited.** Disclosure of the address or telephone number of victims and witnesses is prohibited. (Pen. Code, § 1054.2.)
31. **Special needs.** The court should ensure that the special needs of certain victims or witnesses are taken into consideration. Examples might include the needs of the elderly, children, or dependent adults.

Discovery

32. **Medical records.** In addition to the requirement that the prosecutor turn over all possibly relevant evidence to the defense, any medical record of the victim or defendant related to the domestic violence is discoverable in a domestic violence criminal case. (Pen. Code, §§ 1054–1054.8; Evid. Code, § 998.)
33. **Protocols for access to information.** Disclosure to the defendant of the address and contact information of the victim or witness is prohibited. Under Penal Code section 964, courts are to develop protocols with local law enforcement regarding restricting access to victim and witness personal identifying information contained in police reports filed with the courts. (Pen. Code, §§ 841.5(a), 964, and 1054.2.)

Jury selection in domestic violence cases

34. **Larger juror panel.** The court should consider calling a larger juror panel than in other types of cases because many potential jurors in domestic violence cases may have been victims of or witnesses to domestic violence, or their family or close friends may have been victims or witnesses.
35. **Juror privacy.** The court should respect the privacy of jurors in voir dire. For example:
 - a. The option of being questioned on the record but outside the presence of other jurors should be offered;

- b. Jurors should be informed that questionnaires, transcripts, and juror records are not confidential unless sealed by court order;
- c. For juror safety, the court should not release juror addresses; and
- d. The court should refer to jurors by number rather than by last name.

Victims

- 36. ***Victim's right to a support person.*** The alleged victim is entitled to have a support person or family member present at the hearing. (Pen. Code, §§ 868, 1102.6.)
- 37. ***Victim's right to be present.*** The victim has a limited right to be present at all stages of the criminal proceedings except when subpoenaed as a witness. (Pen. Code, § 1102.6(b)(1).)
- 38. ***Victim protections.*** The court should consider applying the statutory protections available to sexual assault victims to domestic violence cases involving sexual assault charges. If the court does apply these protections, it should state its reasons for doing so on the record.
- 39. ***Hearsay evidence.*** Each court should be cognizant of the limitations of hearsay evidence under the United States Supreme Court opinion in *Crawford v. Washington* (2004) 541 U.S. 36. Under *Crawford*, statements are generally inadmissible if the declarant is not present, if the statement is “testimonial,” and if the victim has not been previously cross-examined. The California Supreme Court has accepted review for numerous cases addressing hearsay issues under *Crawford*.
- 40. ***Testimony of victim.*** If a victim is reluctant to testify, the court should attempt to discover the reasons for the victim's reluctance and to determine whether the victim has been coerced or intimidated. To assist in this process, the court should consider the strategies and questions outlined in the *California Judges Benchbook: Domestic Violence Cases in Criminal Court* (3rd ed., §§ 4.24 and 4.25, pp. 84–86).

Compelling participation or testimony

- 41. ***Contempt.*** The first time a domestic violence victim refuses to testify in a case, the victim cannot be incarcerated for contempt of court. If the court holds a domestic violence victim in contempt for refusal to testify, the order must be stayed pending filing of a petition for extraordinary relief to determine the lawfulness of the court's order. Such orders are given a three-day stay of execution. (Code Civ. Proc., § 128(e).) The court can also order 72 hours of domestic violence counseling or “appropriate community service.” (Code Civ. Proc., § 1219(c).)

Dispositions

Sentencing

- 42. ***Fines.*** Courts must consider whether the defendant is able to pay a fine or restitution to the victim or to the Restitution Fund as a condition of probation, and the amount thereof. (Pen. Code, § 1203(b)(2)(D)(ii).)

43. **Restitution.** Restitution to the victim is primary even if the defendant is ordered to repay other costs such as public defender and probation fees. (Pen. Code, § 1202.4(f)(2).)

Probation

44. **Probation.** If the defendant is convicted and placed on probation for conduct perpetrated against any of the persons defined in Family Code section 6211 and the conduct could be enjoined under Family Code section 6320, the court must impose all of the terms and conditions of probation set forth in Penal Code section 1203.097. Persons defined under Family Code section 6211 are:

- a. Spouse or former spouse;
- b. Cohabitant or former cohabitant;
- c. Person the defendant is dating or has dated;
- d. Mother or father of the defendant's child;
- e. A person related by blood or marriage within the second degree; or
- f. A registered domestic partner or former registered domestic partner (See Fam. Code § 297.5).

45. **Discretionary terms and conditions of probation.** The court also may consider imposing additional terms and conditions of probation, such as:

- a. Prohibiting the use of alcohol and other drugs;
- b. Permitting law enforcement to search and seize all firearms in the defendant's possession; and
- c. Requiring attendance at parenting classes.

46. **Oral advisement.** At the time a defendant is convicted and placed on probation, the court should orally advise the defendant and explain the specific terms and conditions of probation, including all firearms restrictions. This should occur whether or not the defendant has signed a written probation agreement.

47. **Batterer's intervention programs.** A 52-week intervention program must meet the following requirements:

- a. The program must be approved by the probation department;
- b. The defendant must enroll within 30 days of sentencing or release date;
- c. The program must provide periodic progress reports at least every 3 months;
- d. The defendant must complete the program within 18 months of enrollment;
- e. The defendant can have only three unexcused absences; and
- f. The court cannot waive program fees, but the court must consider the defendant's ability to pay and ensure that a program with a sliding fee scale is available. (Pen. Code, § 1203.097.)

48. **Protective orders.** A protective order under Penal Code section 1203.097 is mandatory to protect "the victim from further acts of violence, threats, stalking, sexual abuse, and harassment." (Pen. Code, § 1203.097(a)(2).)

49. **Protective order provisions and procedures.** The protective order:
- Must prohibit violence, intimidation, or threats;
 - May prohibit contact with the victim;
 - May allow contact for visitation allowed by custody order;
 - Must be issued on the mandatory Judicial Council CPO form, *Criminal Protective Order—Domestic Violence*, (form CR-160) for any order issuing, modifying, extending, or terminating a CPO, including probation conditions; and
 - Must be kept by the court in the original in the court file. (Pen. Code, §§ 136.2, 1203.097.)
50. **Notice.** Penal Code section 1203.097(a)(3) provides that if probation has been granted, the victim is to be notified of the disposition of the case. Prosecutors should provide this notice because they have (or have access to) the victim’s address and the court often does not. Moreover, if the court were to give this notice, the notice, including the victim’s address, could become a publicly accessible court record that may jeopardize victim safety.
51. **Restitution fine.** On probationary sentences, the court may increase the amount of the restitution fine above the statutory minimum, and if all the conditions of probation are satisfied, the court can then waive the elevated fine. On the other hand, if probation is revoked, the court has the flexibility to impose a restitution fine other than the statutory minimum.
52. **Review of other orders.** Before sentencing, the court should review all orders regarding the defendant in any related family law matter and in all other relevant cases.

Protective Orders Generally

53. **Firearms restrictions.** The court must make all applicable firearm restriction orders under state and federal law. (Pen. Code, § 136.2(a)(7)(A).)
54. **Cases involving children.** In a case involving children, a court that issues a CPO either pretrial or as a term of probation should consider whether to provide for peaceful contact between the restrained person and the protected person for the safe exchange of the children under an existing or future family law order. For this purpose, the court may consider whether to check the appropriate box on the Judicial Council mandatory form, *Criminal Protective Order—Domestic Violence* (form CR-160).
55. **Entry into DVROS.** CPOs; orders to modify, extend, or terminate CPOs; and proofs of service of CPOs must be entered in DVROS by the court or its designee within one business day. (Pen. Code, § 136.2(a)(7)(A); Fam. Code, § 6380(a).)
56. **Copies.** All interested parties must receive a copy of the CPO. (Pen. Code, § 136.2(e)(1).)

57. ***Procedure to retrieve belongings.*** Each court should encourage the establishment of a local law enforcement procedure to allow a restrained person who is restricted from his or her residence to safely retrieve personal belongings.
58. ***Modification or termination of a CPO.*** If a protected person or a defendant requests modification or termination of a CPO, the court should consider referring the protected person to a domestic violence advocate or other support person for the purpose of discussing the safety implications of the request. If the request is submitted to the court after sentencing, the prosecutor must be given an opportunity to respond to the request. (Pen. Code, § 1203.3.) The court should conduct a hearing at which the prosecutor and defense counsel are present to determine whether the person requesting the modification or termination is in fact the protected person, whether there is good cause for the modification or termination, and whether the modification or termination request, if made by the protected person, is voluntary and not a result of coercion or duress. Other factors the court should consider include (1) the reason for the request, (2) the existence of a safety plan for the protected person, (3) whether the defendant is participating in a batterer's intervention program, and (4) the impact on any children who are in the home. The court also may wish to consider conducting its inquiry in an alternate setting, such as requesting a waiver of the defendant's appearance and conducting a reported chambers interview with the victim or requesting a probation officer or domestic violence counselor to conduct the interview. If the court modifies or terminates the order, the court should ensure that the modification or termination is memorialized on the mandatory Judicial Council form, *Notice of Termination of Protective Order in Criminal Proceedings (CLETS)*, (form CR-165, and duly entered into DVROS.
59. ***Expiration.*** CPOs issued under Penal Code section 136.2 expire on or before the date that criminal jurisdiction over the defendant terminates. (*People v. Stone* (2004), 123 Cal.App.4th 153.) If criminal jurisdiction over the defendant terminates early, a *Notice of Termination of Protective Order in Criminal Proceedings* (CR-165) must be entered into DVROS within one business day. However, new legislation, effective January 1, 2008, provides for the issuance of a CPO for a period of up to 10 years for conviction of certain specified domestic violence crimes whether or not the defendant is sentenced to probation or state prison. (See Assem. Bill 289; Stats. 2007, ch. 582).
60. ***Local rule for communication.*** The court must promulgate a local rule delineating the procedure for communication among courts issuing or modifying CPOs and courts issuing orders involving child custody and visitation. (Pen. Code, § 136.2(f); Cal. Rules of Court, rule 5.450.) Courts also must delineate a similar procedure for communication among courts issuing or modifying CPOs and courts issuing civil or other restraining orders involving the same parties.

Postconviction

61. ***Assessment.*** As soon as feasible after a defendant is convicted and placed on probation, the court or a designated justice system agency, such as probation program or

a batterer intervention program, should conduct an initial lethality assessment and should determine whether the defendant's ability to comply with the terms and conditions of probation is affected by mental health or substance abuse problems.

62. *Progress reports.* The court should order the defendant to appear at a review hearing within 30 days of placing the defendant on probation, at which time the court should determine whether the defendant is in compliance with the terms and conditions of probation. Further, the court must receive "periodic progress reports . . . every three months or less" regarding the defendant's participation in the batterer intervention program. (Pen. Code, § 1203.097(a)(6) and (c)(1)(O)(ii).) Judicial Council form, *Batterer Intervention Progress Report* (form CR-168,), should be used by the probation department or the program provider to periodically inform the court of the defendant's progress in the program.

63. *Final evaluation.* The court must receive a "final evaluation that includes the program's evaluation of the defendant's progress" in the batterer's intervention program and the program should also inform the court as to whether the fees for the program and any restitution have been paid. (Pen. Code, § 1203.097(c)(1)(O)(iii).)

64. *Defendant's appearance during probation.* The court should consider requiring the defendant to appear for periodic progress reports during the probationary period. This appearance may help increase compliance with the probationary conditions. After an initial appearance, courts may consider waiving the appearance requirement if the defendant is in full compliance.

65. *Graduated sanctions.* The court should consider graduated sanctions for probation violations, including the failure to comply with the condition requiring attendance at a batterer intervention program. Graduated sanctions take into account the totality of the circumstances of the defendant's performance and progress while on probation, as well as the impact on the victim. By using graduated sanctions, the court maintains discretion and flexibility in addressing the unique circumstances in each case.

66. *Role of probation.* In addition to the statutory duties of the probation department set forth in Penal Code section 1203.097, probation can be helpful to the court in the following ways:

- a. Conducting assessments regarding lethality, mental health, and substance abuse;
- b. Conducting an orientation to the batterer intervention program;
- c. Evaluating the probationer's ability to pay the fee for the batterer intervention program; and
- d. Maintaining regular communication with batterer intervention programs to determine the progress and status of the probationers and to improve the administration of the programs.

The defendant's successful completion of the terms and conditions of probation and therefore the rehabilitation of the defendant, public safety, and the safety of the victim are directly tied to the involvement of the probation department and probation officer.

Accordingly, the court should advocate for adequate funding for probation services needed to appropriately review and certify programs that meet the statutory requirements and those that provide services necessary to monitor, supervise, and counsel the defendant.

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Attachment:

THE PRESIDING JUDGES' WHITE PAPER ON DOMESTIC VIOLENCE

The Role of the Presiding Judge in the Administration of Domestic Violence Cases

December 13, 2007

Our goals are to ensure fair, expeditious, and accessible justice for litigants in these critical cases and to promote both victim safety and perpetrator accountability.

Courts must help to ensure that claims of domestic violence can be fully and fairly presented for adjudication, and then, once such claims are found to be true, that victims can receive appropriate assistance, and defendants can be provided the tools to break the cycle.

—Chief Justice Ronald M. George¹⁸

We commend the Domestic Violence Practice and Procedure Task Force, appointed by Chief Justice Ronald M. George in September 2005, for its leadership and work in developing guidelines and recommended practices and procedures. In the last year the members have done an admirable job of collecting information and input from as many stakeholders as possible from across the state. As presiding judges we support the task force's proposals.¹⁹ We recognize that the proposals, viewed collectively, fit squarely within the Judicial Council's strategic goals of access, fairness, and diversity; independence and accountability; modernization; quality of justice and service to the public; education; and building the requisite infrastructure to support those goals. We also recognize that the proposals are guided by the findings contained in the Judicial Council's study on public trust and confidence in the courts,²⁰ which emphasize the public's need for an opportunity to be heard and an understanding of court proceedings. In order for the approved task force recommendations to become a reality and achieve implementation in each of our courts, the presiding judges in every county, large and small, must play a leadership role.

We believe that presiding judges, in partnership with court executive officers, are willing to accept the leadership challenge to advocate for the proper handling of domestic

¹⁸ Judicial Council of California News Release, September 13, 2005, *Chief Justice Names New Statewide Task Force on Domestic Violence*.

¹⁹ See Judicial Council of Cal., Advisory Com. Rep., *Domestic Violence Practice and Procedure Task Force Draft Guidelines and Recommended Practices for Improving the Administration of Justice in Domestic Violence Cases* (Jan. 2007).

²⁰ David B. Rottman & Nat. Center for State Courts, *Trust and Confidence in the California Courts: A Survey of the Public and Attorneys* (Part I: Findings and Recommendations) (Judicial Council of Cal., Admin. Off. of Cts., 2005).

violence cases in our courts. At the same time, we believe we must provide a view of the regular functions and duties of presiding judges through a new lens—one that focuses on the ways presiding judges can improve the administration of justice in domestic violence cases. We join with the task force in its effort to implement standardized procedures and practices in handling domestic violence cases.

CRITICAL FOCUS AREAS FOR PRESIDING JUDGES

Leadership

Many significant legislative and other mandates govern the administration of domestic violence cases. Some of these mandates do not dictate the way in which judicial decisions are made but they do affect court operations. The mandates can range from the duty to ensure that restraining orders are promptly and accurately entered into the statewide Domestic Violence Restraining Order System to the design of court programs that provide adequate self-help services to both parties in a domestic violence proceeding or access to review restraining order applications on a 24-hour basis. Even these few examples demonstrate that the entire administration of the court—from facilities to technology, to employment to security—can be implicated. Mandated responsibilities like these cannot be handled by the individual judge or court employee. Rather, they fall within the authority and responsibility of the court’s executive team—the presiding judge and the court executive officer.

As presiding judges we need to be actively involved in key areas. We recognize that each court must select the appropriate way to implement the task-force’s proposals and that it is a presiding judge’s responsibility to design the court’s individual response to domestic violence cases. We suggest that each court’s approach should maximize services, allocate resources wisely, and maintain accountability.

To ensure that courts comply with mandates promulgated to increase safety and accountability, the presiding judge and court executive officer should maintain a system of internal self-assessment and audits so that the court is continuously monitoring its own progress. Perhaps more important, the local courts themselves, if they pursue a course of internal assessment, will be able to develop sound practice and procedures to voluntarily improve the administration of justice in these cases consistent with their unique local structure and needs. Critical to this process is the gathering of information on a local level so that sound policy decisions will be made. When local courts’ internal monitoring and needs assessments are in place and when they are coupled with communication and outreach to justice system partners, the judicial branch as a whole is in a better position to govern its own affairs in service to the public. Other agencies of government will be far less likely to impose or suggest changes that do not properly or easily fit within the court environment.

Providing a Feedback Loop on Practice and Procedure Within the Court, the Justice System, and the Greater Community

Presiding judges should ensure that the court and the appropriate judicial officers convene regular meetings with domestic violence community stakeholders. Although the models and titles vary slightly by county, many courts have embraced an active and regular relationship with stakeholders for years.

Generally the counties with experience report that these meetings are a good forum for:

- Facilitating communication;
- Collaborating on innovative ideas;
- Educating stakeholders on procedures in domestic violence court;
- Improving ongoing procedures; and
- Enhancing contributions of resources from other than the court.

Judges must be aware of potential ethical issues, but most who have participated in these collaborative meetings report that ethical pitfalls are easily avoided. Judicial leadership helps ensure that agenda items are appropriate and productive and enhance the public's perception of the court.

As ethically appropriate, the court should participate in domestic violence coordinating councils or court-convened committees that provide an opportunity for justice system partners to comment on court practice and procedure relating to domestic violence cases and that provide a mechanism for improving these practices and procedures.

The leadership of the presiding judge is essential in implementing these vital proposals for working with justice system entities and community organizations.

Enhancing Courtroom and Court Facility Security

Courtroom Security—Presiding judges must recognize that courtroom violence most commonly occurs in the family law court or the domestic violence court. In order to maximize the safety of litigants and court staff, courtroom security must be the highest priority. This requires a team effort, among the presiding judge, the court executive officer, and the law enforcement agencies responsible for courtroom security.

In these high-conflict courtrooms there is a large percentage of self-represented litigants who have no attorney to express or manage their emotions. These courtrooms often have high-volume calendars, so they are packed with litigants who have a large emotional stake in the proceedings with no barriers to the parties being in close proximity to each other. It is important that the law enforcement agencies responsible for courtroom security implement policies and procedures that enhance safety in these courtrooms.

Therefore the domestic violence courtroom team should have information on potential problems in advance of the proceedings. Courts should provide CLETS access to the courtroom so that information about all parties in these high conflict cases is available.

Facility Security—The areas outside the courtroom should also be addressed. These areas may include, for example, hallways, family court services offices, and parking lots. The law enforcement agencies responsible for courtroom security should provide staffing to the extent feasible so that “protected persons” remain protected after they leave the courtroom.

One of the most significant contributions that the presiding judge can make to security in high-conflict courtrooms is the selection of the judicial officer. Ensuring fairness, remaining patient, and maintaining the appropriate demeanor are particularly taxing challenges in these courtrooms. In the courtroom itself, the judicial officer sets the tone. The judge must keep control of the courtroom while giving both sides a chance to be heard and treating all litigants with respect.

Part of the judge’s team is his or her courtroom staff. The court should consider using law enforcement in domestic violence courtrooms. The bailiff should be empowered to call for extra security when needed. The departure of the parties from the courtroom should be staggered. As resources permit, upon request of a protected party, an escort should be provided for a safe departure.

Adequate funding is essential to these security procedures and may not be readily available in some courts. We urge presiding judges to be prepared to advocate for the necessary funding so that every litigant and each member of the court’s staff can have the assurance of safety when they enter the court facility.

Determining the Appropriate Court Structure—Domestic Violence Courts or Dedicated Calendars

Presiding judges have been responsible for developing court proceedings and calendars that focus directly on domestic violence. Specialized calendars in family law and criminal domestic violence cases are becoming the rule rather than the exception in our counties.

We recognize that domestic violence courts do not warrant a “one-size-fits-all” approach; in some counties a dedicated judge and courtroom handle domestic violence cases; others may best be served by using specialized calendars.

These specialized courtrooms and calendars make it easier to:

- Offer victims and children specialized services at the court;
- Ensure that sentences are consistent;
- Obtain critical information before hearing the domestic violence cases (for example, whether any of the parties has a criminal conviction for family violence,

- whether a party is currently on probation, and whether a restraining order is currently in force);
- Implement more effective procedures to ensure compliance with court orders, such as periodic reviews for court-ordered domestic violence classes and firearms relinquishment orders;
 - Monitor issuance, compliance, and termination of protective orders; and
 - Communicate with and leverage valuable resources and contributions by other justice and social service partners.

The challenge for a presiding judge is to embark on a process of analyzing and reviewing his or her current court practices and to embrace the goal of improving the handling of domestic violence cases. Presiding judges and court executives will have to work closely to manage realistic reforms and ensure prompt implementation.

Making Appropriate Judicial Assignments and Ensuring Adequate Resources for Judicial Officers Assigned to Domestic Violence Cases

The presiding judge has ultimate authority to make judicial assignments. This duty is especially critical in domestic violence court.

Presiding judges should take into account:

- The needs of the public and the court as they relate to the efficient and effective management of the court's calendar;
- The knowledge and abilities demanded by the assignment; and
- The judges' interests.

No other assignment challenges a judge's skills like presiding over domestic violence cases, in part because they come through many doors of our justice system: criminal court, juvenile delinquency, juvenile dependency, and family law. These cases often present complicated legal issues and *always* present the sensitive emotional issues that accompany families in crisis.

Judges who are selected to preside over domestic violence cases need to be provided with support that will improve the court's response in domestic violence cases. That may include:

- Domestic violence information and self-help programs and services;
- Additional staff to coordinate the families and their cases (i.e. CLETS, other court orders);
- Victim services;
- Court interpreters;
- Probation officers;
- Clinicians for the evaluation of drug, alcohol, and mental health problems;
- Public health nurses; and
- Other relevant agencies.

Judges need to have trained back-up judges to cover vacations and emergencies. We recommend that temporary judges not be used in domestic violence calendars.

The task force can be helpful in assuring that funding is linked to all best-practices recommendations.

Providing Public Information in Response to Press Inquiries Regarding Domestic Violence Cases or Policies

As presiding judges we are mindful that the news media are conduits to our ultimate target audience: the public. It is important that judges continue to respond to inquiries from the media and that they receive education and training on dealing with the media in domestic violence cases. Domestic violence cases often fall into the category of high-profile cases. These cases may have overtones that attract the media, at times they may have tragic outcomes, and often they are the subject of adverse attention for the judicial officers hearing them.

A judicial officer handling domestic violence cases may look to the presiding judge for support when unjust criticism is leveled at him or her after making an unfavorable call in a domestic violence case. It is necessary for presiding judges to develop a media strategy that will assist and support judges who have these difficult assignments.

In order to help create public trust and confidence in our courts, it is critical that as presiding judges we are open to inquiries from the public and the media about our court operations and policies.

Ensuring the Availability of Judicial and Staff Education

An informed and educated judiciary, assisted by a highly qualified staff, is the cornerstone of ensuring public trust and confidence in our courts. Domestic violence cases, with their unique features, may present challenges to achieving this essential goal. It is with the support and encouragement of both the presiding judge and the court executive officer that the courts can achieve it.

Domestic violence allegations may arise in a wide variety of case types, each with a distinctive statutory scheme and technical requirements. Restraining orders, mandatory terms of probation, child custody and visitation determinations, and child maltreatment issues are all examples of the legal settings in which these allegations arise. Thus, judicial educational needs are comprehensive and interdisciplinary. These needs are rendered even more acute when we consider the varied court calendar mechanisms and judicial assignment procedures that exist and the varied experience of the judicial officers who hear these matters on a daily basis.

Challenges for court staff are equally complex since the litigants in these critical cases are often under stress, may be self-represented, and face safety risks. Because of the prevalence of domestic violence in our society, court personnel themselves may have had

personal experience with domestic violence or know colleagues, friends, neighbors, or family members who have, making the competent and neutral performance of court functions that much more difficult.

With the advent of new educational requirements and expectations recently adopted by the Judicial Council, it is imperative for the presiding judge to support education and enable judicial officers and court staff to participate fully in educational opportunities relating to domestic violence cases. Implementing these vital judicial and staff education proposals will require leadership. While it may require a delicate balancing act to ensure that daily court operations are not compromised when judicial officers and staff are participating in training, the presiding judge and court executive officer should facilitate the achievement of this critical goal.

Ensuring Adequate Funding and Resources

While we applaud many of the best practices urged by the task force, as presiding judges we understand that the key to improvements in our courts is adequate funding. Our ability to implement improvements could be hindered by lack of resources. Thus, many presiding judges may naturally be reluctant to move forward on certain proposals if judicial, staffing, and facilities resources are insufficient. If we want these best practices to become reality in California, then we will need resources—not only additional funding but also those resources, such as additional education, that will yield the needed judicial officers, support staff, and courtrooms to deal with our ever-increasing caseloads.

As presiding judges we must be willing to advocate for these resources at the national, state, and local level. This will include addressing our communities and providing education about what we need and what it will take to get the job done.

We can provide the leadership, but in order for presiding judges to ensure adequate funding and resources we must rely on others to produce the necessary means. Adequate funding for our domestic violence courts and cases sends a message that domestic violence is a community priority.

CONCLUSION

As presiding judges we have the responsibility to make sure that our courts work toward the goals set forth in this paper. These guidelines should be more than just a “call to action”; they should become an integral part of our judicial responsibilities as presiding judges. It is our mission to ensure that as a branch we make an overall commitment to work together to eradicate family violence. As Chief Justice Ronald George has said, “Courts alone cannot solve the problem of family violence—but they truly can make a difference.”²¹

²¹ Family Violence and the Courts: 10th Anniversary Conference, San Francisco, CA, September 10, 2004.

This inaugural white paper was developed by the Executive Committee of the Judicial Council's Trial Court Presiding Judges Advisory Committee. The underlying intent of this document is to provide a statement of leadership and to emphasize for courts the critical need to support best practices designed to improve the administration of justice in domestic violence cases. This white paper also delineates ways to implement best practices in this arena and outlines a guide for courts to assess and monitor their progress. The Executive Committee is cognizant that an individual court's ability to implement these practices may be affected by the resources available to that court.

Recommended Guidelines and Practices for Improving the Administration of Justice in Domestic Violence Cases: Final Report of the Domestic Violence Practice and Procedure Task Force January 2008, Approved February 2008 by the Judicial Council

End Notes August 2013 Reflecting Current Law

Page 8, Areas of Inquiry

The name of the Domestic Violence Restraining Order System (DVROS) has been changed to the California Restraining and Protective Order System (CARPOS) References contained in the report to DVROS apply to CARPOS. (See in addition pp. 16, 19, 20, 27, 28, 29, 30, 41)

Pages 11-12, Guideline No. 4 Judicial education

The Judicial Council adopted California Rules of Court, rule 10.464, effective January 1, 2010. This rule requires each judge or subordinate judicial officer who hears criminal, family, juvenile, delinquency, juvenile dependency, or probate matters must participate in appropriate education on domestic violence issues as part of his or her requirements and expectations under California Rules of Court, rule 10.462. Each judge or subordinate judicial officers whose primary assignment is in one of these areas also must participate in a periodic update on domestic violence as part of these requirements and expectations.

Page 15, Guideline No. 11 Right to hearing

The holding in *Nakamura v. Parker* (2007) 156 Al. App. 4th 327, was codified in Family Code section 6320.5.

Page 18, Guideline No. 31 Court coordination

Former California Rule of Court, rule 5.450 was renumbered without substantive change to become California Rule of court, rule 5.445, effective January 1, 2013.

Page 23, Guideline No. 7 Court inquiry, Footnote 10

Penal Code section 12028.5 was renumbered to Penal Code section 18250 and Penal Code section 12021(g)(2) was renumbered to Penal Code section 29825(a), effective January 1, 2013.

Page 24, Guideline No. 10 Set review hearing

California Rule of Court, rule 4.700, effective January 1, 2010, requires that if the court has reasonable cause to believe that the defendant has a firearm in his or her possession or control, the court must to set a firearm relinquishment review hearing to make a determination as to whether the defendant has complied with the requirement to relinquish his or her firearm and to take further appropriate action.

Page 26, Guideline No. 18 Revision of EPO form to indicate reported firearms

The Emergency Protective Order form (EPO-001) was revised in accordance with this guideline, effective January 1, 2013.

Page 28, Guideline No. 1 Access to CLETS

Former California Rule of Court, rule 5.450 was renumbered without substantive change to become California Rule of court, rule 5.445, effective January 1, 2013.

Page 32, Guideline No. 1 Administration of criminal domestic violence cases

Former California Rule of Court, rule 227.8, was renumbered without substantive change to become California Rule of Court, rule 10.952, effective January, 1, 2007.

Page 32, Guideline No. 2 Bail schedule

Penal Code section 1269c should read Penal Code section 1269b(c)

Page 34, Guideline No. 14 Factors in setting, modifying, or denying bail

Penal Code section 1269b should read Penal Code section 1275.

Page 42, Guideline No. 60 Local rule for communication

Former California Rule of Court, rule 5.450 was renumbered without substantive change to become California Rule of Court, rule 5.445, effective January 1, 2013.



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FACT SHEET

May 2013

California Courts Protective Order Registry

The California Courts Protective Order Registry (CCPOR), currently deployed to 25 counties and 11 tribal courts with 8 additional counties coming online by October 2013, is a statewide repository that provides more complete, accessible information to judicial officers and law enforcement on restraining and protective orders. By promoting victim safety and perpetrator accountability, CCPOR supports the California judicial branch's strategic plan Goal IV, Quality of Justice and Service to the Public, and the related operational plan objective (IV.1.e) for "[i]mproved practices and procedures to ensure fair, expeditious, and accessible administration of justice for litigants in domestic violence cases."

Project History

The CCPOR program resulted from a recommendation to the Judicial Council submitted by the Domestic Violence Practice and Procedure Task Force to provide a statewide protective order registry. The registry contains up-to-date information, including order images, that is readily available to judges and law enforcement in the participating counties. In February 2008, the Judicial Council approved the recommendation and the CCPOR project was initiated by the AOC Information Services Division under the sponsorship of the Bay Area Northern Coastal Regional Office and with the support of the Center for Families, Children & the Courts.

The Domestic Violence Practice and Procedure Task Force also sought to enhance and improve court access to the California Law Enforcement Telecommunications System (CLETS), an information system managed by the California Department of Justice. As the largest statewide database of protective orders, CLETS is essential for safeguarding both victims of violence and law enforcement officers in the field. Current law requires that all protective orders be entered into CLETS within one business day of issuance. One important goal of CCPOR is to ensure timely and accurate entry of these important orders into the CLETS system.

Goals of CCPOR

To address the task force recommendations, CCPOR has three primary goals:

- Provide the trial courts in all 58 California counties access to CCPOR, enhancing the capability of bench officers to make more informed decisions and avoid issuing conflicting orders;
- Improve public safety and the safety of law enforcement officers by providing access to full text (images), and accurate, complete, and up-to-date order information; and
- Automate exchange of information between the courts and CLETS.

Two key components of CCPOR are the ability to enter and upload protective order data into the system and to search and retrieve that data, including electronic images of court orders. Viewing these electronic images is particularly valuable because this allows users to view special conditions and notes added by judges that are not available through CLETS. In addition, information about court orders that is keyed into CCPOR will be automatically transmitted to CLETS.

Key Features

When fully deployed, CCPOR provides the capability to:

- View order data and images from all 58 California superior courts;
- Access data and order images 24/7 through a secure web-based interface;
- Search orders by name, case number, and other criteria;
- Facilitate protective order sharing between courts;
- Automate California Restraining and Protective Order System (CARPOS—formerly “DVROS”) submission through CLETS;
- Integrate with the Court Case Management Systems utilizing a standard data exchange in order to provide access to judges on the bench and law enforcement officers in the field;
- Provide shared access to law enforcement agencies.

Orders that will be captured in the registry include:

- | | |
|---|-------------------------------------|
| • Civil Harassment Restraining Orders | • Criminal Protective Orders |
| • Domestic Violence Restraining Orders | • Elder Abuse Restraining Orders |
| • Emergency Protective Orders | • Juvenile Restraining Orders |
| • Out-of-State Domestic Violence Restraining Orders | • School Violence Prevention Orders |
| | • Workplace Violence Orders |

Use of Enterprise Technology

CCPOR leverages the technology infrastructure at the California Courts Technology Center (CCTC). Design, development, and deployment of CCPOR to the courts was accelerated by reusing key technologies in use at CCTC, including the Integrated Services Backbone (ISB), the California Court Case Management System (CCMS), and the CCTC connection to CLETS. Taking advantage of these tools and systems reduces costs, improves service delivery and provides better management and administration of the system.

While CCPOR is being deployed in advance of the complete rollout of the CCMS, it will be tightly integrated with CCMS to promote venue transparency. CCMS will directly feed into CCPOR to help promote increased access to court information across jurisdictional boundaries.

Development & Deployment Timeline

September 2008–June 2010: Design and development of initial system.

April–December 2010: On-board 21 counties: Amador, Calaveras, El Dorado, Fresno, Humboldt, Inyo, Kern, Kings, Lake, Marin, Placer, Plumas, Riverside, San Benito, Santa Clara, Santa Cruz, Stanislaus, Tulare, Tuolumne, and Ventura.

April–June 2011: On-board Butte County.

April–November 2011: Tribal Court Access - Hoopa Valley, Northern California Intertribal Court System (serving the following tribes: Cahto Tribe of the Lafayette Rancheria, Coyote Valley Band of Pomo Indians, Hopland Band of Pomo Indians and Manchester Point arena Band of Pomo Indians) Shingle Springs Rancheria, Quechan, Yurok, and Smith River Rancheria Tribal Courts.

September 2012–October 2013; On Board 12 new counties: Merced, Lassen, Tehama, Mendocino, Glenn, Sutter, Solano, San Joaquin, San Luis Obispo, Imperial, Madera, and Mariposa.

June 2012–June 2013: FACCTS integration: Development, testing and implementation of electronic signed order from FACCTS system to CCPOR via automated data exchange. Other courts may elect to integrate using this data exchange.

October 2013–September 2014; On Board 4 new counties; 1 large court, and 3 small courts.

2013-2015: Continued deployment to additional counties and justice partners.

Project Awards

Winner - 2011 Best of California Award

Best Application Serving an Agency's Business Needs

Center for Digital Government

<http://www.centerdigitalgov.com/survey/2581>

Winner - 2011 National Digital Government Achievement Award

Government-to-government Category

Center for Digital Government

<http://www.centerdigitalgov.com/survey/88>

Finalist - 2011 Recognition Awards for Outstanding Achievement in the Field of
Information Technology in State Government

Data Information and Knowledge Management

National Association of State Chief Information Officers

<http://www.nascio.org/newsroom/pressRelease.cfm?id=105>

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Additional resources:

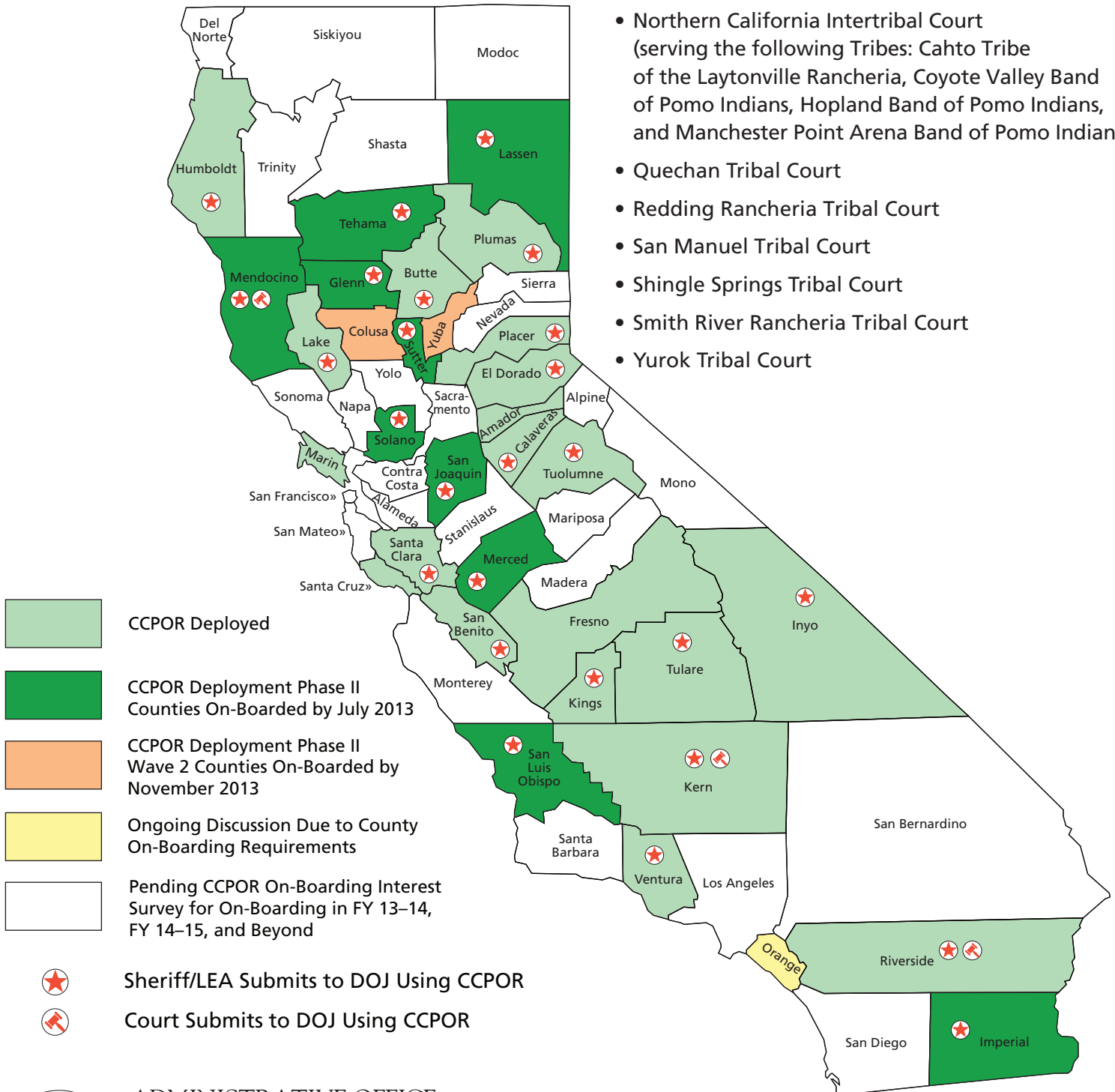
*Guidelines and Recommended Practices for Improving the Administration of Justice in Domestic
Violence Cases: Final Report of the Domestic Violence Practice and Procedure Task Force,*

www.courts.ca.gov/xbcr/cc/dvpp_rec_guidelines.pdf

CALIFORNIA COURTS PROTECTIVE ORDER REGISTRY DEPLOYMENTS

Tribal Courts Using CCPOR

- Hoopa Valley Tribal Court
- Northern California Intertribal Court
(serving the following Tribes: Cahto Tribe of the Laytonville Rancheria, Coyote Valley Band of Pomo Indians, Hopland Band of Pomo Indians, and Manchester Point Arena Band of Pomo Indians)
- Quechan Tribal Court
- Redding Rancheria Tribal Court
- San Manuel Tribal Court
- Shingle Springs Tribal Court
- Smith River Rancheria Tribal Court
- Yurok Tribal Court



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