

Advisory Committee on Domestic Violence Issues in Virginia's Courts

Supreme Court of Virginia

March 24, 2011

Meeting Notes

Charge and Mission: to provide advice and guidance to the Chief Justice of the Supreme Court of Virginia and the Office of the Executive Secretary of the Supreme Court of Virginia on improvement to the courts' handling of domestic violence-related cases and the content and format of domestic violence-related training provided to the judicial personnel including judges, magistrates, and clerks.

Members Present:

Judge Avelina Jacob, Loudoun Juvenile and Domestic Relations District Court
Detective Mac Adams, Richmond Police Department
Judge Lee Chitwood, Pulaski Juvenile and Domestic Relations District Court
Ms. Joyce Crews, Magistrate's Office of the Twenty-Second Judicial District, Danville
Judge Lucrecia Carrico, Petersburg General District Court
Ms. Sandra Haley, Martinsville Public Defender's Office
Judge Mary Jane Hall, Norfolk Circuit Court
Ms. Vivian Henderson, Office of the Commonwealth Attorney, Virginia Beach
Ms. April Higgs, Loudoun Community Corrections
Mr. Thomas Kohlbeck, Virginia State Police
Ms. Lelia Baum Hopper, OES, Supreme Court of Virginia, Court Improvement Program
Ms. Ruth Micklem, Virginian Sexual and Domestic Violence Action Alliance
Justice Bill Mims, Supreme Court of Virginia
Ms. Sherri Quinn, ACTS Turning Point, Prince William County
Judge Angela Roberts, Richmond Juvenile and Domestic Relations District Court
Ms. Lynn Tierney, King George Combined Courts

Members Absent:

Ms. Shavaughn Banks, Suffolk Commonwealth's Attorney's Office
Ms. Linda Curtis, Hampton Commonwealth's Attorney's Office
Mr. Karl Hade, OES, Supreme Court of Virginia
Mr. Lewis Wright, 14th District Court Services Unit

OES Staff Present:

Ms. Madelynn Herman, OES Department of Judicial Planning

Guests Presenters:

Mr. Chris Wade, OES, Department of Judicial Planning
Mr. Tim Tatum, OES, Department of Judicial Information Technology

Guests:

Ms. Kassandra Edwards, Department of Criminal Justice Services

Call to Order and Welcome

Judge Avelina Jacob called the meeting to order and welcomed all members and guests of the advisory committee. All members and guests introduced themselves.

Approval of 5/4/10 Meeting Notes

Meeting notes from the Advisory Committee meeting held on May 4, 2010 were approved as written.

Member Announcements

Two committee members informed the committee about new resources and programs. Vivian Henderson brought to the committee's attention a promising faith-based collaborative program being offered in the Virginia Beach and Norfolk areas called the "Garden of Hope" program. This program, funded through the Office of Women Health is an initiative designed to provide educational training, resources and support to women of faith leaders in order to empower them to become domestic violence and intimate partner advocates in their faith-based community.

Judge Roberts recommended that the committee take a look at a special issue of the Juvenile and Family Court Journal on domestic violence. This issue provides many valuable articles on topics such as adolescent partner violence, technology and implications for stalking, elder abuse, and an analysis of interventions for men who batter.

Orientation to Advisory Committee

For the benefit of new members of the Committee, Madelynn Herman provided an orientation to the Advisory Committee by reviewing the Committee's mission and charge and the activities and accomplishments in the first three years of the Committee (2007-2010). In addition to this overview, she pointed out several 'products' that were either reviewed or created through the work of the Committee from 2008-2010. These included:

- The final draft of the 2010 memo to the Chief Justice on "Recommendations for the Improved Handling of Cross Warrants in Domestic Violence Cases."
- Workshop descriptions and presenters for the 'Court Track' of the GEAP statewide conference, "Policy, Practice, Partnership: Building Safer Communities Through a Coordinated Response to Domestic Violence," held in 2009.
- The revised version of §18.2-57.3 Persons charged with first offense of assault and battery against a family or household member.
- "Domestic Violence Best or Promising Practices in Virginia" information sheet.
- "Judicial Considerations for Supervised Visitation," info sheet for judges.
- "Domestic Violence Funding Sources and Resources" resource sheet.
- "Increasing Safety at the Courthouse for Victims of Domestic Violence," information sheet.

- “I-CAN! brochure.
- “Federal Firearms Law: Domestic Violence Offender Gun Ban” brochure.

OES Domestic Violence Updates

Domestic Violence Data Warehouse Project. Chris Wade, Senior Management Analyst with the Department of Judicial Planning at OES, provided the Committee with an update on the Domestic Violence Data Warehouse project. With financial assistance from the Virginia State Police last year, OES created a stand-alone domestic violence data warehouse. Since January 6, 2011, protective order data is now ‘dumped’ into the data warehouse on a daily basis from the court’s case management system. He is working with the Department of Judicial Information Services to have data available back to January 1, 2011.

Previously, in order to obtain accurate protective order data, data had to be pulled from the VCIN file because of the way data is collected and stored in CMS. For example, preliminary protective order cases are ‘dropped’ from the system when a final protective order is issued. Because protective order data is now collected and stored daily, more accurate statistics are available on how many preliminary and final protective orders are issued by courts in Virginia.

Mr. Wade provided the Committee with examples of various reports that can be run to examine protective orders in Virginia. He also provided a list of data elements, “Protective Order Data Extract,” that is now captured in the domestic violence data warehouse.

Committee Member Comments and Recommendations:

- Several members of the Committee indicated that this is a huge improvement for the courts and recognized that OES had made great progress in being able to provide more detailed domestic violence data within the last few years.
- For the bar graph chart on “Protective Orders Issued by Age,” indicate whom the chart tracks, the petitioner or the respondent.
- Report child and adult protective orders separately.

V-STOP Summit and Improving Coordination. Madelynn Herman provided a brief report on the V-STOP Summit that she, along with Cyril Miller from OES, and Fran Ecker from DCJS attended in New Orleans this past fall. The goal of this summit was to bring together state teams to discuss how to improve communication and coordination between the state STOP administering agencies and the courts. Since 5% of the STOP funding is allocated to courts, this ‘court set-aside’ was the focus of the Summit. In addition to the goal of improving coordination between agencies (OES and DCJS), both agencies learned about what other states are doing with their STOP court funds. Descriptions of specific court projects were included in the meeting notebook. Also included in the notebooks was a copy of the “State Team Meeting One Report: Improving Coordination and Collaboration” which was put together by both OES and DCJS.

Kassandra Edwards, the new V-STOP administrator for DCJS was an invited guest to the meeting and commented on the STOP Administration state plan for increasing communication and coordination between the courts and DCJS, the state administering agency for the STOP funds.

She stated that the purpose of the plan that was developed at the STOP Summit in New Orleans was to increase coordination between the agencies so that courts benefit from the STOP funds. While she did not attend the Summit, due to her moving into her position after the Summit took place, Ms. Edwards stated that she has since attended an OVW conference that discussed the court set-aside funds. Entities must still apply through DCJS for these court-specific funds. If the entity is not a court, they must have an MOU with the courts regarding the project they are proposing and how it will benefit the courts. She hopes to work more directly with the courts for funding projects out of the court set-aside STOP funds.

OVW Grant Funded Projects.. Madelynn Herman provided a brief overview of the three domestic violence grant funded projects currently at OES. 1) A “Community Defined Solutions” grant (formerly called Grant to Encourage Arrest and Enforcement of Protection Orders) was awarded to OES in October of 2010. This two-year partnership grant funds clerk training with the Virginia State Police on improving VCIN entry and as a partnership, developing a leadership institute for improving a coordinated community response to domestic violence; 2) A “Court Training and Improvement” grant was awarded to OES in October of 2010. This is a three-year locality grant funds the development of a protective order/compliance docket in Pulaski Virginia; 3) The V-STOP grant covers the development of a new I-CAN! protective order (stalking) module as well as funds various judicial education activities. We are in the 2nd year of this two-year grant.

I-CAN! Update. Tim Tatum presented a report to the Committee on his progress with the redesign of I-CAN! This redesign incorporates all the recommendations of the Committee along with other recommendations with the goal of making the system more user-friendly for petitioners using the system to complete a preliminary family abuse protective order. Mr. Tatum provided the Committee with a chart that tracked the system improvements and the status of each improvement.

Mr. Tatum stated that DJIT is in the process of building the platform to put the system on the in-house server. When that happens, he will be asking committee members to test the system and review the changes that have been made. The goal has been to improve clarity and understanding so that users can more easily navigate the system. He has added a progress bar. Mr. Tatum showed the Committee several screens of the new design of I-CAN!.

The next steps are to create a testing platform and do a second round of testing. He will be asking each committee member to ask two others (non legal and non law enforcement) to evaluate the newly re-designed I-CAN! for clarity, functionality and ease of use. They will also be asked to identify any errors in the system. Each screen will have a number at

the bottom of the screen so that they can identify problems associated with a certain screen page.

Committee Member Comments and Recommendations:

- It was noted that the PIN number is very long and a shorter PIM would be helpful.
- Mr. Tatum stated that the “pros and cons” of shortening the PIN or having petitioners choose their own PIN will have to be discussed. The new design of I-CAN! also has a printing option for the PIN number. Mr. Tatum will look into the possibility of having system users choose their own PIN number.

Protective Order Legislation Discussion

Committee members were provided a summary of four domestic violence-related House bills from the 2011 session (as of March 21, 2011). The Governor has signed only one bill of the four listed as of March 21, 2011 (HB 1757), however it is anticipated that the other three bills be signed as enrolled. The bills include:

- HB1757/SB1199. Address Confidentiality Program. This bill expands the Address Confidentiality Program for victims of domestic violence to all jurisdictions within the Commonwealth.
- HB 1779/SB754. Preliminary child protective orders; purchase or transportation of firearms by persons subject to orders. Limits the prohibition on purchasing and transporting a firearm by persons subject to preliminary child protective orders to orders entered pursuant to subsection F of §16.1-253 where a petition alleging abuse or neglect has been filed.
- HB 2089. Service of notice of emergency protective orders. This bill provides that a law enforcement officer may affect personal service of an emergency protective order issued pursuant to 16.1-253.4 or 19.2-152.8 by personally serving the person subject to the order with a notification of the issuance of the order on a form approved by the Executive Secretary of the Supreme Court of Virginia.
- HB 2063/SB1222. Protective orders; availability; penalty. This bill renames “protective orders for stalking” as “protective orders” and expands the class of persons eligible to obtain these emergency, preliminary and protective orders to include persons who have been subject to any act involving violence, force, or threat that results in bodily injury or places one in reasonable apprehension of death, sexual assault, or bodily injury.

Committee members were most concerned with HB 2063 and discussion continued regarding the impact that this bill would have on General District and Circuit Courts.

General Committee Comments Regarding HB 2063:

- This new legislation opens a big door to the numbers of petitioners requesting protective orders for sexual assault.
- The new protective order means that neighbors or anyone in reasonable apprehension of harm can request a protective order.

- There will be a big increase in the university community for petitions since sexual assault will now be included as it wasn't previously for family abuse protective orders.
- The new legislation expands protective orders to dating violence.
- A network of systems at the local level will need to be built for assistance and outreach.
- The new protective order also broadens opportunities for folks that are not in a relationship but need protection.
- Judicial leadership is important in the process to lead the change on the local level.
- Clerks of Court in General District Courts will need to be brought up to speed quickly on the changes and trained accordingly.
- Circuit Court will only be affected if there is a violation of a protective order.
- Commonwealth Attorneys don't prosecute misdemeanors and now with the current changes, there may be a need for a domestic violence prosecutor to handle violations of protective orders that come out of Circuit court as the volume increases.
- Circuit court issues that are anticipated include petitions that are hard to read, courts using different forms, and consistent procedures to electronically submit VCIN paperwork to State Police. It would be helpful if all courts use the same form because if there is no DOB on the form, State Police cannot enter the order into VCIN, thus affecting enforcement of the order.

Committee members were informed that work is being done at local level and the courts are getting the tools that they need. OES is following the statute and will train accordingly on any issues brought up by the Committee. Legal Research is working on changes to the court forms and Judicial Services is responsible for training for clerks in General District Courts. The Department of Judicial Services is charge of training for General District Court clerks. Clerks and judges are used to statute changes every year and handle the changes well. There may be more responsibility on victim service programs in the community to educate victims about the protective order changes. Committee members were told to document any issues involved with the new protective orders and to send their concerns to Committee staff, Madelynn Herman who will compile the concerns and direct them to the appropriate people at OES.

Following a brief review, members discussed the new protective order legislation and the impact that it will have once it becomes law on July 1, 2011.

Committee Member Comments:

- Additional strain will be placed on General District clerks of court, as they do not have a clear path for assistance with protective orders as do J&DR courts.
- Sexual assault victims will be able to petition both in J&DR court as well as General District court for a protective order.
- Community corrections will see an increase in caseloads.

- Law enforcement will need to include the new POs in officer domestic violence training as a warrant is now not necessary to proceed with a protective order case involving stalking.
- Personal service of a protective order can be made on the side of the road, so clerks will have to ensure timely and correct information entered into VCIN.
- The confidentiality of victims will be affected in courts where there are 'mass' dockets.

Committee Member Recommendations:

- The Committee should identify key issues related to the legislation and prioritize the issues for possible inclusion in training materials or in newly developed procedures.
- Cross training of both clerks and law enforcement would be helpful as it relates to changes in the determination of the 'predominant aggressor'.
- Due to recent legislative changes in child protective orders and firearms provisions, it will be important to make clear to courts the differences in firearms provisions that are triggered in child protective orders and family abuse protective orders.
- Once the new legislation is implemented on July 1, 2011, the Committee should be able to identify additional impacts. These impacts and the Committee's recommendations for how to proceed will be explored at subsequent meetings.

Project Passport Update. Ms. Herman briefly informed the Committee that Project Passport is in the final stages of being fully implemented at OES. Project Passport is an inter-state effort to improve full-faith and credit in the enforcement of protective orders across state lines through a recognizable first page of a protective order. The Committee notebook provided sample copies of the current version of the Family Abuse Protective Order DC-650 form (7/10) as well as the draft version as of 11/10. It was noted that the OES forms committee was meeting this week, so there will be additional changes to the 11/10 version. Project Passport will be fully implemented with the release of the 7/11 version.

Domestic Violence Training/Information for Judges and Magistrates. The Committee was shown a hard copy of the 2010 Domestic Violence Reference Manual for Juvenile and Domestic Relations District Court Judges. This manual was reformatted and partially updated in 2010 and is now available on the court's Intranet. The table of contents of this manual was provided in the meeting notebooks. The Committee was told that we would like to update this manual and may need their assistance in doing so. No substantive discussion concerning the manual took place due to time constraints.

Direction for the Committee Discussion. Judge Jacob led a discussion with the committee on their thoughts on priorities for the Committee to focus on during the next year. Based on what they heard in the beginning of the day regarding the prior work of the Committee, as well as the discussion of the day, members were asked to identify the most critical domestic violence issues to focus on.

Committee Recommendations:

- Children exposed to domestic violence
- Intervention into witness tampering
- Under 18 dating violence (adolescent partner violence)
- Information on immigration issues (U-Visas) as an education for the Committee. It was suggested that we get a speaker for the next meeting on this topic.
- Education on remedies for domestic violence
- Training for judges, clerks, and magistrates – especially General District Court
- Technology implications for stalking
- Elder abuse
- Coordinated Community Response – keeping all educated and informed

Next Meeting Date. The next full advisory committee meeting was set for Thursday, September 15, 2011 from 10:00 A.M. until 3:00 P.M.

Judge Jacob adjourned the meeting at 3:00 pm.

Respectfully submitted,

Madelynn Herman
Department of Judicial Planning
Office of the Executive Secretary
Supreme Court of Virginia