

The Supreme Court of Ohio

MEMORANDUM

TO: Chief Justice Maureen O'Connor

CC: Michael L. Buenger, Administrative Director
Stephanie E. Hess, Court Services Director
Stephanie Graubner Nelson, Children & Families Section Manager

FROM: Judge John T. Rohrs III, Chair
Diana L. Ramos-Reardon, Policy Counsel

DATE: January 25, 2016

RE: Advisory Committee on Domestic Violence 2015 Annual Report

Pursuant to Guideline 4.03 of the Operating Guidelines for the Advisory Committee on Domestic Violence, Judge Rohrs of the Defiance Municipal Court, Chair of the Advisory Committee, and Diana Ramos-Reardon, Policy Counsel and staff liaison to the Advisory Committee, hereby submit the 2015 annual report.

Purpose of Advisory Committee

The purpose of the Advisory Committee is to provide ongoing advice to the Court and its staff regarding the promotion of statewide rules and uniform standards concerning the establishment and operation of domestic violence programs in Ohio courts; the development and delivery of services to Ohio courts on matters involving domestic violence, including training programs for judges and court personnel; and the consideration of any other issues the advisory committee deems necessary to assist the Court and its staff regarding the resolution of domestic violence issues presented in Ohio courts.

2015 Activities and Accomplishments

The Advisory Committee met on February 27th, May 1st, August 28th, and November 6th. As discussed in further detail below, the Advisory Committee primarily focused on the following items in 2015: (1) promoting access to justice (2) enhancing domestic violence resources, and (3) providing input on policy matters.

Access to Justice

In 2015, the Advisory Committee engaged in two key activities to further the Supreme Court's goal of removing barriers to justice for limited English proficient (LEP) parties. Through the support of a Violence Against Women Act grant, 19 domestic violence, stalking and sexually oriented offense, and juvenile protection order forms were translated into Arabic, Chinese, Russian, Somali, and Spanish. Although courts only use and accept the forms in English, the translated forms complement efforts to ensure LEP parties know the breadth and seriousness of protection orders.

Additionally, the Advisory Committee partnered with the Language Service Program and the American Bar Association Commission on Domestic & Sexual Violence to develop and host twice a course on the fundamentals of sexual violence for court interpreters. The courses provided a forum to understand the dynamics of sexual violence, examine interpreters' biases, and explore the challenges courts face in sexual assault cases. Specific tools were disseminated to assist court interpreters build vocabulary and context relevant to this type of case.

Domestic Violence Resources

Guide to Firearms Returns in Domestic Violence Cases

The **Guide to Firearms Returns in Domestic Violence Cases** was published and disseminated statewide in August 2015. This publication is the culmination of the work of the Firearms Workgroup, who was tasked with studying and recommending policies and practices regarding the return of firearms upon the expiration of a protection order. The **Guide** fills an important gap regarding the numerous considerations when ruling on firearms return motions, increases the breadth of knowledge of judges regarding federal and state firearms disability criteria relevant to domestic violence cases, and provides a framework to begin the firearms return analysis. The Advisory Committee consulted with the Columbus Field Division Counsel of the Bureau of Alcohol, Tobacco, Firearms and Explosives in drafting the **Guide**.

Domestic Violence & Allocation of Parental Rights and Responsibilities Court Guide

The Advisory Committee convened the DV-Custody Project Subcommittee to draft the **Domestic Violence & Allocation of Parental Rights and Responsibilities Court Guide**. As contemplated, the court-specific guide intends to enhance and increase the tools available to the judiciary when domestic violence and the allocation of parental rights and responsibilities intersect. Although the Advisory Committee pursued this project in response to concerns from Ohio courts in determining how past domestic violence in the family will impact future parent-child relationships, the **Court Guide** has garnered the attention of national programs such as the Center for Court Innovation, Battered Women's Project, and National Council of Juvenile and Family Court Judges.

The **Court Guide** is research-based, puts forth important considerations relevant to statutory best interest factors, and articulates a parenting plan continuum. Additionally, ten domestic relations and juvenile courts from across Ohio have agreed to test and provide feedback

on the **Court Guide** to ensure the published resource is useful and meaningful to Ohio courts. The final product will be released in the spring of 2016.

Input on Policy

The Advisory Committee reviewed several legislative measures introduced in 2015 to determine their impact on the courts' effective response to domestic violence and stalking cases. Salient among the bills monitored was Senate Bill 76, which addresses service concerns with protection orders emanating from *State v. Smith*, 136 Ohio St.3d 1, 2013-Ohio-1698. Although none of the legislative measures discussed by the Advisory Committee were enacted, the Advisory Committee took special note of Senate Bill 177, which was enacted in December 2014 but became effective on March 23, 2015. This law appears to codify the current language in the Supreme Court's standardized protection order forms regarding protection for companion animals. Because the statutory language resembles closely the language already in the protection order forms, the Advisory Committee did not recommend immediate amendments to the forms.

The Advisory Committee also reviewed and submitted public comments on proposed amendments to Civ.R. 65.1. The amendments clarify questions noted by the Advisory Committee, such as appropriate methods of service in post-decree civil protection order cases or limitations of service by publication or posting. To harmonize the proposed amendments with federal law [i.e., 18 U.S.C. 2265(d)(3)], the Advisory Committee, via its public comments, recommended an exemption for service by electronic posting of civil protection order proceedings, which the Commission on the Rules of Practice and Procedure accepted. Amended Civ.R. 65.1 is expected to go into effect on July 1, 2016.

Additionally, the Advisory Committee focused its attention in 2015 to strengthening local courts' understanding of domestic violence offenders. To this end, Violence Against Women Act grant funds were used to support three critical activities: build internal capacity regarding domestic violence courts, convene a Domestic Violence Forum for courts interested in having a domestic violence specialized docket, and host a course for judges, court staff, and justice partners on supervising domestic violence offenders. These activities frame the Advisory Committee's strategy to enhance local courts' response to domestic violence.

2016 Anticipated Activities

In 2016, the Advisory Committee will continue to assess progress on identified goals and objectives and pursue activities consistent with its mission. As always, the dedicated members of this Committee will continue to strive to provide valuable input to the Supreme Court.

The Advisory Committee anticipates working on the following projects:

Civil Protection Order Proceeding Bench Card

The rule on civil protection order proceedings, Civ.R. 65.1, went into effect approximately three years ago. It provides many ways in which courts may exercise judicial discretion to give domestic violence, stalking, sexually oriented offense, and juvenile civil

protection order proceedings expedited treatment consistent with the Ohio Revised Code. However, little training or education on the breadth of the rule was provided upon its adoption. With the advent of the amendments to Civ.R. 65.1, the Advisory Committee believes it is timely to develop a bench card to provide an overview of the rule. Staff will seek approval to develop such a resource, which will complement existing materials (available on the Supreme Court web site) about protection orders, in general.

Lethality Factors Guide

The **Domestic Violence & Allocation of Parental Rights and Responsibilities Court Guide** currently under development provides domestic relations and juvenile courts a succinct overview of critical lethality factors in domestic violence cases. The Advisory Committee proposes to build on this resource and create a tool relevant to courts with criminal jurisdiction. As contemplated, the proposed guide will underscore the connection between high risk factors and severe domestic violence and complement ongoing efforts to support domestic violence courts.

Standard Protection Order Forms

Although the Advisory Committee is circumspect about proposing new protection order forms, several local courts have inquired about standard orders to dismiss a civil protection proceeding following the issuance of an ex parte civil protection order. The Advisory Committee finds this question intriguing and will explore the need and practicality of proposing such a standard form. The Advisory Committee will recommend a new form only if such a form is necessary to foster the fair administration of justice.

Additionally, the Advisory Committee, through the Court's Legislative Counsel, will monitor relative to protection order forms three legislative initiatives: (1) the recommendations of the General Assembly's Criminal Justice Recodification Committee, particularly to determine whether existing protection order forms will have to be consolidated per statutory amendments, (2) House Bill 392, which proposes a new protected relationship classification, and (3) proposed legislation to codify "No Contact Orders". The Advisory Committee is aware that if the latter legislation is enacted, it may be called to draft "No Contact Order" forms or revise existing protection order forms. Ohio's protection order forms are recognized as national models. The Advisory Committee will make every effort to make sure Ohio forms retain such a distinction.