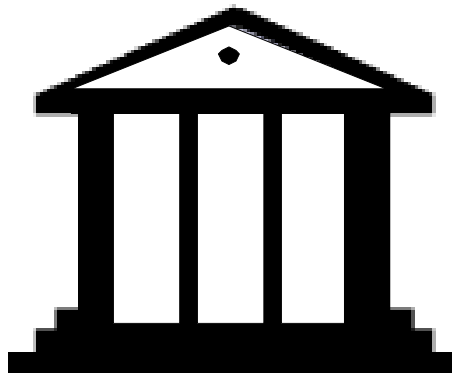


**DOMESTIC VIOLENCE COURT ASSESSMENT
EXECUTIVE SUMMARY
APRIL 2003**



**Office of the State Courts Administrator
Office of Court Improvement
Supreme Court Building
Tallahassee, Florida**

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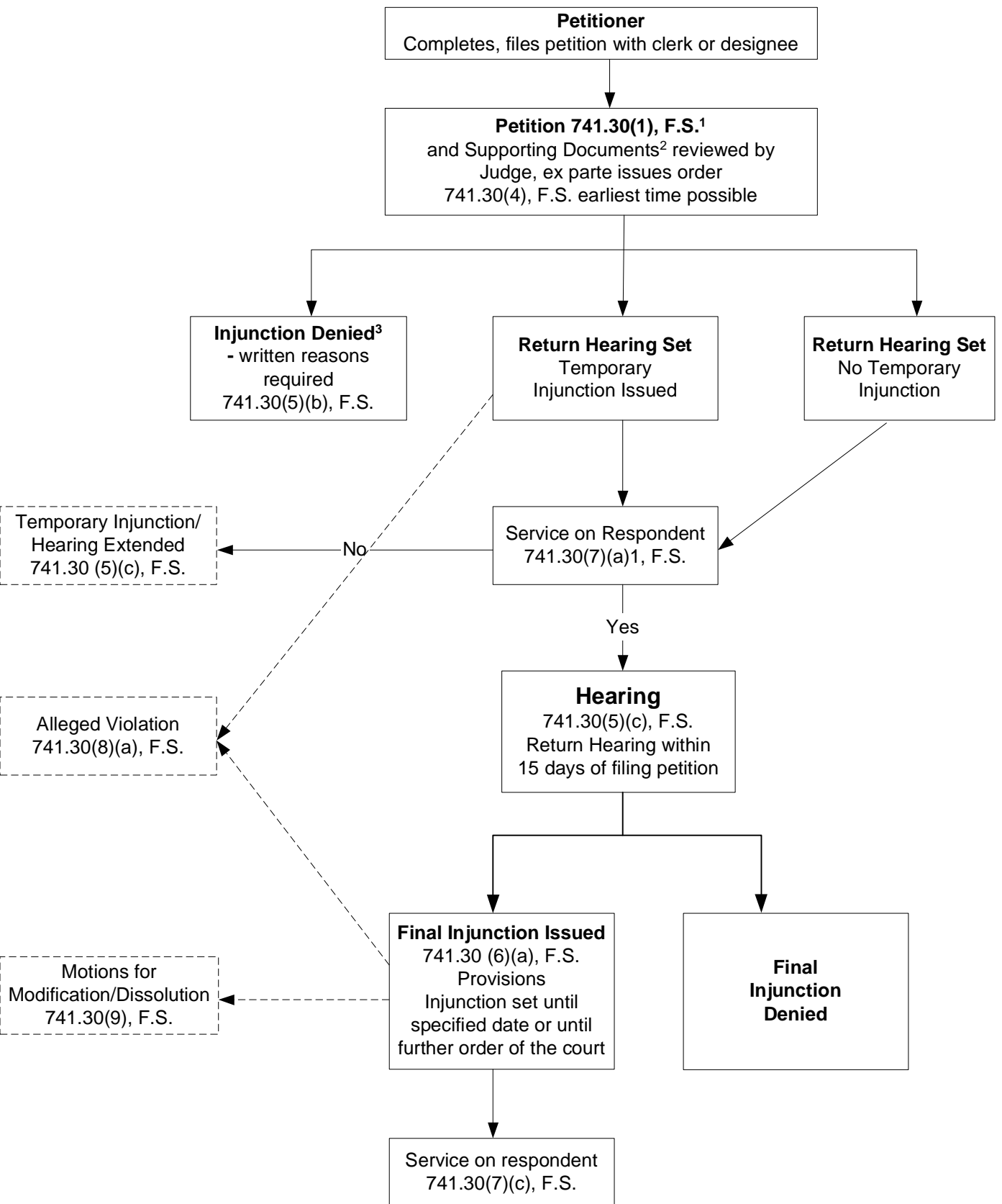
Domestic Violence Court Assessment Executive Summary

The Office of the State Courts Administrator was awarded a STOP Violence Against Women grant in January of 2002. This \$237,000 grant was used to study how courts are handling civil domestic violence cases, with a specific goal of documenting state judicial processes in domestic violence cases and developing recommendations for model court practices. Data was collected through site visits, interviews, and observations as well as from case file reviews in 14 counties throughout Florida. This Executive Summary provides an overview of the findings, conclusions, and recommendations contained in the assessment report. The Domestic Violence Subcommittee of the Steering Committee on Families and Children in Court will conduct further review of the assessment findings in order to develop additional recommendations and specific implementation guidelines.

According to the Florida Statutes, “domestic violence” means any assault, aggravated assault, battery, aggravated battery, sexual assault, sexual battery, aggravated stalking, kidnapping, false imprisonment, or any criminal offense resulting in physical injury or death of one family or household member by another family or household member. § 741.28(1), Fla. Stat (2002). Any person who is a victim of or has reasonable cause to believe that he or she is in imminent danger of becoming a victim of domestic violence may file a petition for an injunction for protection against domestic violence. § 741.30(1)(a), Fla. Stat.

The flow chart on the following page illustrates the domestic violence injunction process as described by the Florida Statutes.

Domestic Violence Flow Chart



¹ Statutory citations are from the 1999 statutes

² Supporting Documents - UCCJEA, Financial Affidavit, Confidential Address

³ Petitioner may refile/submit supplemental affidavit

Findings and Conclusions

Qualitative data

Seemingly straightforward as outlined in statute, the domestic violence judicial process is actually compounded by the complex dynamics of domestic violence and its impact on families. Available research indicates the need for coordinated case processing and monitoring to properly address the complicated issues associated with domestic violence, including the safety of litigants. The courts studied in this assessment have developed localized procedures to process domestic violence cases. An overview of these practices and related findings was generated through the compilation of survey, interview and observation data. A summary of these findings follows.

- Intake is accomplished through a variety of arrangements when individuals seek an injunction for protection against domestic violence. Ideally, petitioners are provided with Florida Supreme Court promulgated forms, assistance in identifying the relevant aspects of their cases, preparing for court hearings, and considering whether additional legal avenues should be pursued to resolve other family law issues. In most counties studied, the Clerk of the Courts' Offices provided forms and assistance to those seeking domestic violence injunctions. In two of the counties studied here, the local DV center advocates provided all intake services for domestic violence repeat violence cases, while in two other counties, Court Administration staff performed the intake functions for domestic violence injunction cases.
- Many counties studied were fortunate to have domestic violence advocates from local domestic violence centers play a significant role in assisting litigants. The services provided varied, but where available these advocates complemented resources available from the court system.
- Case management services have been very broadly defined for the purposes of this assessment. Therefore, a wide spectrum of professionals participated in providing services within that definition. The establishment of a coordinated service delivery system appeared to enhance the effectiveness of the individual agencies or entities by ensuring that the key participants were not working at cross purposes in their handling of DV cases and that there were few or no "gaps" in the court-related services needed by litigants. Clerks of the Courts' staff, court administration staff, DV center advocates, and even law enforcement officers provided services designed to ensure an adequate, effective response to domestic violence cases.

- Those who participate directly in the justice system, i.e., judges, court staff, and bailiffs, reported the most positive views of the court system's handling of domestic violence injunctions. Individuals who work directly with the petitioners and respondents for some length of time, i.e., domestic violence advocates, Public Defenders and Batterers' Intervention Programs, expressed the least positive views of the court system's handling of domestic violence injunctions. The injunction process is perceived to be more effective at providing initial, emergency protection to petitioners than at providing long-term assistance, rehabilitation, or accountability to respondents.
- Providing assistance to petitioners and respondents early in the process appears to be an important facet of effective court processes, and one that has implications for case preparation and presentation, due process, and workload issues. Appropriate help may enable petitioners to focus on the relevant aspects of their cases, to prepare for the court processes ahead, and to consider whether additional legal avenues are necessary and appropriate for the long-term resolution of other family issues, including filing for dissolution of marriage or permanent child custody.
- Mechanisms for interagency coordination and the use of dedicated, specialized staff for domestic violence injunction cases appear to promote the effective use of resources within the courts and within local communities. Effective coordination systems were identified in both large and small counties.
- Judges expressed opinions about a variety of topics. Although their comments reflect a variety of perspectives, all judges reiterated the importance of balancing due process concerns for litigants with the need to handle domestic violence cases quickly and effectively.

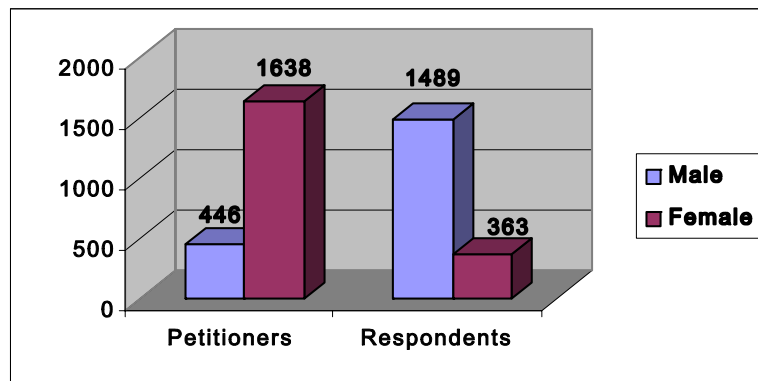
Case data

The Domestic Violence Court Assessment Project team collected data in fourteen counties from a total of 1,830 domestic violence injunction case files. Some cases included multiple petitioners and/or respondents. The counties were selected to be representative of Florida counties on the dimensions of population, geography/location, the number of case filings, and the provision of case management services. The assessment team then randomly selected cases for review from all domestic violence injunction cases filed in those counties between July 1, 1999 and June 30, 2001. Therefore, the data

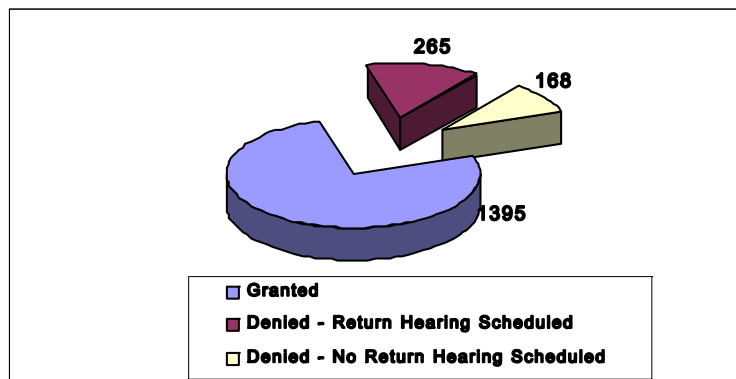
presented here constitute a purposive sample of all domestic violence injunction cases filed during the timeframe noted.

- Almost 90% of all cases reviewed involved intimate partners, versus other types of relationships that meet Florida's statutory definition of qualifying relationships for domestic violence injunctions. Over half the cases filed by intimate partners involved children in common, and well over a third of all cases filed included documentation that the parties were involved in other past or pending family law or criminal cases.
- The safety provisions prohibiting acts of domestic violence against the petitioner, contact with the petitioner, and possession of firearms or ammunition were required to be included by both statute and rule. Respondent participation in a Batterers' Intervention Program (BIP) was required only if certain criteria were met; the requirement was waived if the court issued written findings as to why BIP participation was inappropriate. Other types of treatment for respondents, such as substance abuse or mental health evaluation and treatment were not required and were included in final injunction orders infrequently. The provisions in final injunctions addressed safety issues for petitioners much more frequently than treatment issues for respondents.
- Although some form of case management was provided in over three-fourths of all cases filed, the vast majority of case management service provision consisted of intake/case summary forms, documentation of firearms status on law enforcement notices of service, and the Clerk's court notes. Most case management activities appeared to be focused upon the clerical functions of summarizing information contained in the petitions and noting case dispositions at hearings.
- Service on respondents was a crucial part of the injunction process. Until respondents had been served with the injunction orders issued by the court, those orders could not be enforced. Return hearings were substantially delayed or extended until service of temporary injunctions or notices of hearings had been accomplished and the Clerk of the Court had been notified of service. Both temporary and final injunctions were ultimately served on over 80% of respondents, though in some cases it took months for service to be accomplished. Petitioners had no injunctive protection from domestic violence while they waited for the orders to be served.

- The timeliness of the court's actions in domestic violence cases is critical due to the potential danger to petitioners. Chapter 741, Florida Statutes, requires the court to set a hearing on the petition for injunction at the earliest possible time, and allows the court to grant a temporary injunction *ex parte* when it appears that an immediate and present danger of domestic violence exists. In almost 90% of all cases, the court issued the initial orders on the same day as the petitions were filed. In a number of cases, temporary injunctions or hearings were extended for months before the final hearings were held; these delays were primarily due to lack of service on respondents.
- As shown below, a substantial majority of petitioners were females while most respondents were male. This finding is consistent with research showing that most domestic violence is alleged to be committed by males against females.



- In response to petitions for injunctions, the court may: 1) grant a temporary injunction *ex parte* and schedule a return hearing; 2) deny a temporary injunction and schedule a return hearing, or 3) deny the petition without scheduling a return hearing. Findings indicate that a total of 1,660 cases (90.7% of all cases filed -- n=1,830) were scheduled to go to hearing, either with or without a temporary injunction.



At the return hearing the judge must determine whether to grant or deny the petition for an injunction for protection against domestic violence. The return hearing is required to be held within 15 days of the filing of the original petition, but may be rescheduled upon the petitioner's or respondent's request or due to lack of service on the respondent. The court may also reschedule a return hearing for administrative reasons.

- Case file review data indicated that 90.7% of cases were scheduled for a return hearing.
- Petitioners requested dismissal in 95.4% of those cases dismissed prior to the hearing.
- More than two-thirds of all cases dismissed at hearing were dismissed because the petitioner either failed to appear at the hearing or appeared and requested dismissal.
- Further details are provided below.

Total number of cases: 1,830		% of all cases
Total number of cases scheduled for hearing:	1,660	90.7%
Cases dismissed prior to hearing:	(87)	(4.8%)
Cases-no hearing-no reason documented:	(8)	(0.4%)
Total Number of cases where hearing was held:	1,565	85.5%
Cases dismissed at hearing:	(820)	(44.8%)
Total Final injunctions granted:	745	40.7%

The final injunction for protection against domestic violence is issued at the return hearing when the court finds sufficient reason to do so. The final injunction includes mandatory safety provisions, such as no contact between the petitioner and respondent and surrender of firearms, as well as other

provisions addressing such issues as child custody/visitation and possession of property. Based on the evidence, the judge has the discretion to grant an injunction to be in effect for an indefinite period of time or to specify a specific duration of time for which the injunction is in force. Case file data indicates that:

- All final injunctions issued (100%) prohibited domestic violence against the petitioner.
- 89% of final injunctions included “no contact” provisions; 11% of final injunctions included one or more “modified contact” provisions.
- 44.3% of final injunctions were effective for a definite time period.
- 55.8% of final injunctions were effective until further order of the court.
- 94.5% of final injunction orders prohibited ownership/possession of firearms and ammunition.
- 25.2% of final injunction orders contained some type of treatment provision for respondents.

Recommendations

Assistance should be provided to petitioners at intake and thereafter to assist them in identifying the relevant aspects of their cases, preparing for court hearings, and considering whether additional legal avenues should be pursued to resolve other family law issues.

Case management services should be provided to petitioners and respondents to ensure that they are informed of court processes and hearings, receive information about and referrals to appropriate community resources, and to ensure that compliance with provisions of injunction orders is documented and enforced.

Circuits and counties should develop mechanisms for effective interagency coordination of processes and services.

Courts may wish to consider placing more emphasis on respondent treatment and accountability through inclusion of treatment provisions for respondents whenever appropriate and increased enforcement of compliance with required treatment programs.

Timeliness of the court's actions should be emphasized to avoid having a substantial period of time pass between the filing of petitions or motions and the courts' responses to those filings.

Law enforcement agencies should make every effort to accomplish timely service on respondents as well as rapid notification of the Clerks of the Court that such service has been accomplished.

Key participants should avail themselves of training related to the dynamics of domestic violence, dealing with angry individuals, and the laws, processes, and procedures related to domestic violence injunctions.