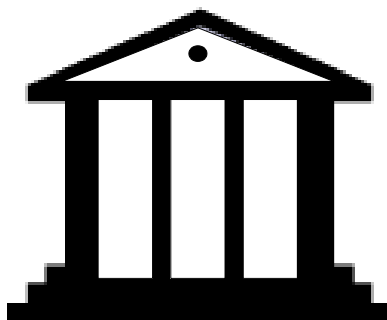


DOMESTIC VIOLENCE COURT ASSESSMENT



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

April 2003

This project was supported by Grant No. 2000-Wf-VX-0015 awarded by the Violence Against Women Grants Office, Office of Justice Programs, U.S. Department of Justice. Points of view in this document are those of the author and do not necessarily represent the official position or policies of the U.S. Department of Justice, The Florida Department of Children and Families or any other agency of the state or federal government.

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We extend our sincere thanks to the following individuals and groups for their support of this project. They have made significant contributions to this assessment and its implications for Florida's citizens.

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DOMESTIC VIOLENCE COURT ASSESSMENT

INTRODUCTION

In 2002, the Office of the State Courts Administrator (OSCA) of the Florida Supreme Court received a STOP (Services-Training-Officers-Prosecutors) grant award to conduct a project within Florida's court system. At the federal level, the STOP grant is administered by the Violence Against Women Office (VAWO) within the Office of Justice Programs, U.S. Department of Justice. The Department of Children and Families is the state agency responsible for administering all STOP grant activities and projects in Florida.

This project incorporates three major activities:

- Identify more effective court policies and services in response to petitions for injunctions for protection against domestic violence;
- Provide resources to judicial circuits, including communication equipment to domestic violence courts that do not currently have the capability of making a record of domestic violence injunction proceedings, and information resources and publications to all judicial circuits; and,
- Develop training for judges and

other court personnel in effectively responding to domestic violence.

This report documents the findings of a study to identify more effective court policies and services in response to petitions for injunctions for protection from domestic violence.

DOMESTIC VIOLENCE COURT ASSESSMENT PROJECT PLAN

SCOPE OF WORK

The overall goal of the domestic violence court assessment was to document state judicial processes in civil domestic violence cases and to develop recommendations for model practices to ensure the safety of victims and their children. Critical elements of goal achievement include: examination of the movement and handling of domestic violence cases; assessment of the ways in which court services are managed and delivered; and, identification of the extent to which parties are concurrently involved in civil and criminal domestic violence cases.

The outcome of the project is this report documenting judicial processes in civil domestic violence cases, including how court services are managed and delivered and how

community services are coordinated, as well as recommendations for model practices. The specific research questions and research approach are described below.

RESEARCH QUESTIONS AND METHODS

Research Question 1: How are domestic violence injunction cases handled by and moved through the court system?

This research question is answered by analyzing data collected from a representative sample of existing case files on domestic violence injunctions. Fourteen counties were selected to participate in the study based upon the criteria including population, number of filings, ratio of filings to population, geographic location, and whether or not that circuit/county provides case management services. The counties selected were:

- Alachua
- Calhoun
- Citrus
- Lee
- Leon
- Manatee
- Miami-Dade
- Nassau
- Okeechobee
- Palm Beach
- Pinellas
- Santa Rosa
- Seminole
- Volusia

Once the counties were selected, a random sample of domestic violence cases was selected by the researchers for review in each of the 14 counties. The sample consists of 1,830 domestic violence cases filed between July 1, 1999 and June 30, 2001. Data were

collected on cases from filing to disposition, post judgment and compliance in order to develop a complete picture of the movement of these cases.

Research Question 2: To what extent are parties concurrently involved in other civil and criminal domestic violence cases?

This research question is answered in two ways: the self-reports of petitioners upon filing of the initial petition; and, cross-checks performed by Clerks of the Court and/or Court Administration personnel in the counties examined. These data were collected for all fourteen counties included in the assessment, and encompass all other civil and criminal cases, including domestic violence cases.

Research Question 3: How are court services managed and delivered?

Several approaches were used to answer this question. First, the research team documented observations and interviewed Clerks of the Court staff and/or Court Administration staff to glean an overall profile of service management and delivery. Any written materials developed by the Court Administration staff or the Clerk of the Court were also collected to assist in the description of service delivery. Second, a series of surveys was conducted to solicit input regarding the current system

as well as suggestions for improvement.

The key participants surveyed include the following groups:

- All judges responsible for hearing domestic violence injunction cases;
- Domestic violence court staff;
- Clerks/clerks' staff;
- Bailiffs;
- Advocates;
- Litigants;
- Public Defenders;
- State Attorneys;
- Batterers' Intervention Program providers; and
- Supervised visitation providers.

Research Question 4: What model court practices can be recommended to ensure the safety of victims and children?

Based upon this assessment, a series of staff recommendations have been developed to address issues in broad areas of service delivery and management. Specific recommendations for implementation of model court practices will be developed by the Domestic Violence Subcommittee of the Steering Committee on Families and Children in the Court.

REPORT OVERVIEW

This assessment report is organized as follows: Section One provides background and context for this research through an annotated

bibliography identifying the crucial issues regarding domestic violence and the courts. Section One also contains an overview of Florida's statutory requirements regarding domestic violence injunctions and the injunction process itself.

Section Two describes the arrangement and delivery of court-related services in the 14 counties based upon observations by the research team as well as review of any printed materials developed by the Clerks of the Court or Court Administration.

Section Three presents the input of key participants obtained through interviews and surveys, with particular focus on what works well in the DV court process, along with suggestions for improvements. Section Four presents and discusses the data collected from case file reviews, and Section Five presents conclusions and lists recommendations addressing broad areas of service delivery and management.

SECTION ONE: BACKGROUND AND CONTEXT

ANNOTATED BIBLIOGRAPHY - DOMESTIC VIOLENCE COURT ASSESSMENT ISSUES

“DOMESTIC VIOLENCE COURTS: WHAT ARE THEY AND HOW SHOULD WE MANAGE THEM?”

(Judge Amy Karan, Susan Keilitz, J.D., Sharon Denaro, J.D. Juvenile and Family Court Journal, Spring, 1999)

This article describes a number of issues related to domestic violence courts. First, the term “domestic violence court” conveys the idea that the court recognizes the distinct nature of domestic violence cases and the need for special attention to them, but there is great variation in what the specialized processes are and what they seek to achieve. Nevertheless, the authors note that the number of courts implementing some type of specialized process for domestic violence cases is growing and judges and court managers need to learn from those who have implemented and managed domestic violence courts.

The potential benefits of domestic violence courts include: improving the responses of the judicial system to individual domestic violence victims; greater access to the judicial process through dedicated calendars and/or courtrooms; enhanced judicial expertise in domestic violence issues;

and, greater judicial oversight of perpetrator behavior and imposition of significant sanctions for violations of court orders.

The complexity of domestic violence cases and available research indicated the need for coordinated case processing and monitoring, ideally within an integrated systems model. Such a model would include interagency collaboration, comprehensive victim advocacy, effective pre-arrest procedures, multi-agency intake, integrated case processing, effective prosecution and defense, effective treatment programs, monitoring and judicial review, and integrated data collection and distribution.

The article describes the role of the judge in promoting a fair and effective case management system and in achieving the domestic violence court’s goals of ensuring victim safety, stopping the violence in the lives of victims and their children, protecting the rights of all parties, and instilling confidence in the justice system.

Finally, the authors encourage courts that are considering adopting domestic violence courts to create integrated systems that will ultimately protect and serve victims.

“HOW ARE COURTS COORDINATING FAMILY CASES?”

(Carol Flango, Victor Flango, H. Ted Rubin. 1999: National Center for State Courts, NCSC Publication number R212)

The goal of this State Justice Institute funded project was to catalog innovative coordination mechanisms used throughout the country and to offer them options for others to emulate, adapt, and evaluate. In this study, family law cases included: juvenile (delinquency, status offenses, dependency, abuse and neglect); marriage dissolution, custody, and visitation; paternity and child support; adoption; domestic violence protection orders; and intrafamily offenses.

A basic premise of this study is that an integrated approach to handling family cases results in better quality of court decision-making as well as optimal use of limited community resources to strengthen families. The coordination mechanisms identified in this study include:

- Court structure and process - variations of the unified family court (One family/one judge/one team);
- Court-centered coordination of family support services - court-based intake, representation, and information sharing/automated information systems;
- Coordination between courts and human service agencies - court

partnerships with service providers and the community, coordination of information between courts and agencies; and

- Statewide coordination - of courts, human services agencies, advisory committees or task forces.

The study described various family court projects illustrating each of the mechanisms listed above and offered the following suggestions for evaluating the success of court coordination efforts:

- Quality of the process;
- Expedition and timeliness of decision-making;
- Access to justice (time/physical access, handicapped and economic access);
- User satisfaction (court system users; litigants and court personnel); and
- Equality, fairness, and integrity (adhering to trial court procedures; providing individual attention; no undue disparity among cases; taking responsibility for enforcement of court orders).

The authors state that coordination mechanisms should be evaluated against stringent outcome criteria so children and families benefit regardless of the court

structure used. In evaluating courts, we should look at participants' (court personnel) satisfaction with their exercise of responsibility, including the adequacy of the amount of time devoted to family cases, the adequacy of technology supporting case coordination, physical facilities and equipment, and service alternatives available to meet their professional responsibilities.

“IMPLEMENTING AN INTEGRATED DOMESTIC VIOLENCE COURT: SYSTEMIC CHANGE IN THE DISTRICT OF COLUMBIA”

(Martha Steketee, Lynn S. Levey, Susan Keilitz. 2000: National Center for State Courts)

This study addresses three interrelated components of the District of Columbia's Domestic Violence Project located in the Superior Court for the District of Columbia. The study examines case processing dynamics and system responses for approximately 500 petitioners for civil protection orders and the respondents in those cases. Data sources included the following:

- Administrative data from the intake unit and on court filings - overall caseload size (total and of cases by month); number of petitions filed, withdrawn, dismissed, consent orders;
- Case and data system files for these 500 cases - demographics (race, gender, children in common); process (petitions, requests, hearing, remedies); legal representation vs. pro se;

contempt charges/non compliance; related criminal cases; civil case history; criminal case history;

- Telephone interviews with 250 petitioners regarding satisfaction with services provided and the impact the justice system process has had on their lives - why did they come for help; their experience with staff (did staff listen, understand, express concern, help w/decisions about what to do); did they feel safe;
- Observations in the DV courtrooms to illustrate court tone and demeanor toward victims and accused batterers; and
- In-depth interviews with the system participants, including intake center staff, judges, police, prosecutors, defense counsel, legal and advocacy service providers.

While the findings of this study relate specifically to the integrated DV court in the District of Columbia and cannot be generalized, the themes identified for continued improvement based upon those findings merit consideration for all DV courts:

- Create new/continue existing vehicles for inter-agency training and collaboration;

- Re-examine key participant roles and missions for sources of conflict between protecting the interests of adult victims and child victims;
- Acquire software to allow easy communication between civil and criminal parts of intrafamily cases;
- Develop consistent, uniform data collection within clerk’s office and the intake unit; and
- Develop and implement multi-disciplinary and discipline-specific ongoing training for all involved in handling domestic violence cases.

“LESSONS LEARNED IN IMPLEMENTING AN INTEGRATED DOMESTIC VIOLENCE COURT: THE DISTRICT OF COLUMBIA EXPERIENCE”

(Lynn S. Levey, Martha Wade Steketee, Susan L. Keilitz. 2001: The National Center for State Courts)

This guidebook presents a summary of key issues and lessons drawn from the District of Columbia’s experience in implementing and managing an integrated DV court (the detailed report is summarized above). While the findings of this study relate specifically to the DC integrated DV court and so cannot be generalized, this report highlights several issues to be considered as courts and their communities work to develop more effective ways to address the

complexities of domestic violence. The issues and lessons are categorized as follows:

- Collaboration in system design, implementation, and management;
- Therapeutic justice concepts related to domestic violence;
- Judicial role in addressing domestic violence;
- Enforcing orders of protection;
- Child protection issues;
- Intake unit management and staffing;
- Training issues;
- Facilities and service issues;
- Technology resources; and
- Evaluation.

“SPECIALIZATION OF DOMESTIC VIOLENCE CASE MANAGEMENT IN THE COURTS: A NATIONAL SURVEY”

(Susan Keilitz, Rosalie Guerrero, Ann M. Jones, Dawn Marie Rubio. 2000: National Center for State Courts)

This report provides basic information about the scope and variety of specialized processes in place in courts across the country and relates current practices to the views of court professionals about the structural components and

resources needed to effectively manage and adjudicate domestic violence cases. The report is descriptive and does not evaluate the quality or effectiveness of the operation, organization, or services reported by courts as their current practices. The data was obtained from three sources: (1) responses of 103 courts to a written questionnaire (including nine courts in Florida); (2) telephone interviews with representatives of 82 of these courts; and, (3) a modified Delphi study with a panel of 27 professionals involved in managing domestic violence cases as well as experts and practitioners.

The 103 courts reported a variety of specialized processes and structural components for managing domestic violence cases including case screening, specialized calendars, intake units, specialized judicial assignment, and court ordered and monitored batterer intervention programs. Most courts have some of these processes and components but few courts have all of them. Further, the combinations and configurations of these processes and structures vary substantially and no clear patterns are evident. The findings from the follow-up telephone interviews with representatives of these courts reinforce the authors' conclusion that the implementation of specialized processes for domestic violence cases is proceeding without common understandings of what components and resources are needed for a coherent and effective case management system.

The key areas of consensus

(70% agreement or greater) among the Delphi participants indicate that specialization of processing and services for domestic violence cases is essential to managing them effectively. Although the concept of specializing court structures and operations for domestic violence cases is gaining momentum, the court community has yet to develop and test models based on a shared vision about the goals of domestic violence courts or specialized processes. The authors conclude that even though courts tend to agree on the reasons for specialized processes—improved assistance to victims, enhanced victim safety, and increased batterer accountability—the majority of courts included in this study do not support the key services and practices needed for survivor safety and batterer accountability.

“UNIFIED FAMILY COURTS: HOW WILL THEY SERVE VICTIMS OF DOMESTIC VIOLENCE?”

(Billie Lee Dunford-Jackson, Loretta Frederick, Barbara Hart, Meredith Hofford. Family Law Quarterly, Spring 1998: Vol. 32, No. 1)

This article discusses the current national drive towards creating unified family courts, which is based on the premise that UFCs are more likely than traditional courts to foster certain specified goals. Implicit in this approach is the recognition that a coherent philosophy of jurisprudence should underlie and inform the structure of a court system.

The authors identify critical issues of the courts relative to

implementing unified family courts in the context of a domestic violence proceeding: safety; justice; resources to meet the special needs of victims; and, prevention. The authors then examine several questions relative to structuring a unified family court: (1) Should the UFC have criminal as well as civil jurisdiction? (2) Should judges have access to all prior court records pertaining to present litigants? (3) Should the court's procedure allow for consolidating all cases involving the same facts and parties into a single case? (4) What should the court's role be in providing, facilitating or brokering social services to family members?

The authors conclude that the ability of unified family courts to serve the needs of victims of domestic violence will depend less on court structure than on whether the court has adopted the appropriate goals of safety, justice, resources, and prevention, whether it is prepared to fulfill the functions crucial to achieve those goals, and whether it will take steps to mitigate risks posed to victims.

“A SEVEN-YEAR LESSON ON UNIFIED FAMILY COURTS: WHAT WE HAVE LEARNED SINCE THE 1990 NATIONAL FAMILY COURT SYMPOSIUM”

(Jeffrey A. Kuhn. *Family Law Quarterly*, Spring 1998: Vol. 32, No. 1)

This article reviews key recommendations made in the 1990 *Redbook Recommendations* and offers commentary reflecting the experiences of judges, court and agency managers, service providers,

academics, or educators with the unified family court during the last seven years.

The author indicates that unified family courts:

- Are about providing therapeutic justice to children and families.
- Must assure adequate staffing levels as well as appropriate, centrally located, and secure facilities.
- Must use effective case management practices and maximize opportunities for the use of alternative dispute resolution mechanisms.
- Must use the most effective method for coordinating multiple matters involving the same family;
- Should organize and structure the delivery of services so that families can receive them in an efficient, timely manner.

“CREATING A DOMESTIC VIOLENCE COURT: COMBAT IN THE TRENCHES”

(Randal B. Fritzler and Lenore M. J. Simon. *Court Review*, Spring 2000)

This article describes a court and the community collaboration to develop and implement a dedicated domestic violence court in Vancouver, Washington. The court has jurisdiction over domestic violence injunctions for protection as well as for misdemeanor domestic violence offenses, and was developed

in response to a high incidence of domestic violence and a system that was fragmented and uneven in its responses to domestic violence. The purpose of the Vancouver domestic violence court is to reduce the incidence of domestic violence. The court is attempting to accomplish this by incorporating principles of therapeutic jurisprudence, preventive law, and restorative justice to assure the safety of the victim and hold the offender accountable.

The creation of this domestic violence court was a joint effort between the judiciary and the community. The essential ingredients for success included a judge in a position to exercise leadership and committed to change, a relatively cooperative judiciary, and input and support from key community agencies and service providers.

The authors note that in attempting to create a domestic violence court, it is important not to underestimate the obstacles and the potential opposition from individuals within and outside the court, but they recommend patience and persistence as well as involving the community to generate the needed political support for change.

“NEW YORK’S PROBLEM SOLVING COURTS PROVIDE MEANINGFUL ALTERNATIVES TO TRADITIONAL REMEDIES”

(Susan K. Knipps and Greg Berman. New York State Bar Journal, June 2000: Vol. 72, No. 5)

This article provides an overview of the three types of

problem-solving courts currently in use in New York state: community courts; drug treatment courts; and domestic violence courts. At the time this article was written, there were five such courts in New York, with another half dozen in the planning stages. The special domestic violence courts are dedicated to dealing with felony and/or misdemeanor domestic violence crimes, and all follow a common set of principles that were first developed at the Brooklyn Domestic Violence Court in 1996. Those principles include victim safety, defendant accountability, consistency of judicial response, and information-sharing and coordination among all court, criminal justice, and social service agencies. New York’s Domestic Violence Courts include the following key elements: dedicated judge; resource coordinator; offender monitor; on-site victim advocate; technology resources; and, research and evaluation.

Data indicate the new courts are making a difference. The Brooklyn Domestic Violence Court has seen dramatically reduced dismissals, warrants and probation violations—common problems that often accompany traditional judicial responses to domestic violence.

“WHERE WE STAND: AN ANALYSIS OF AMERICA’S FAMILY LAW ADJUDICATORY SYSTEMS AND THE MANDATE TO ESTABLISH UNIFIED COURTS”

(Barbara A. Babb. Family Law Quarterly, Spring, 1998: Volume 32, Number 1)

This article evaluates how

America's courts adjudicate family law matters. The author presents a comprehensive overview of the results of her nationwide survey determining how each state's courts handle family law matters, including an assessment of the court structure and whether a state operates a family court, the subject-matter jurisdiction of the court, the term length of judges, and the case assignment method. The survey results reveal a great amount of variety and inconsistency in how America's courts process family law cases.

In terms of the court system structure, only eleven jurisdictions in the United States determine family law matters for the entire jurisdiction within a separate family court or within a separate family division or department, while fourteen states manage family law cases within a separate family court or within a separate family division or department only in selected areas of the state. Of the eleven statewide family law systems, six assign comprehensive jurisdiction while the remaining five limit the court's jurisdiction to hear various aspects of family law cases.

The author concludes that the findings of this survey indicate the extent to which many adjudicatory systems remain fragmented, limited, and overlapping family law subject-matter jurisdiction. She further suggests that states must begin the process of examining the responsiveness and effectiveness of their family law adjudicatory systems to determine whether changing

current systems is appropriate. She recommends that such analyses address the volume of family law cases, the length of time between filing initial pleadings and obtaining temporary and permanent hearings, judicial assignments and caseloads, the provision of court-related and community services, the effectiveness of non-judicial officers' systems, the satisfaction of litigants, and the degree to which procedures vary from jurisdiction to jurisdiction.

“COORDINATION OF DOMESTIC VIOLENCE CASES IN CRIMINAL AND FAMILY COURT: AN INQUIRY AND RECOMMENDATIONS”

(Chris O'Sullivan, Laura Subin, and Carmen Rodriguez. September, 1998: Victim Services, New York City)

This article reports the findings of a study conducted by Victim Services, a private non-profit agency in New York City, to investigate the extent of concurrent and sequential processing of domestic violence cases in the family and criminal courts in the greater New York City metropolitan area, to identify specific problems, and to suggest possible solutions. In all domestic violence cases, what is being decided or has been decided in one court may be relevant to decisions being made in the other court. Without a system for communicating the relevant information, judges are handicapped in their deliberations, introducing the risk of inconsistent orders and possibly increasing the victim's vulnerability.

The study found that about 10% of domestic violence cases in

the New York metro area are concurrently adjudicated in both criminal and family court. Further, up to 20% of cases have a history in one court system but are later processed in the other. The exchange of information and coordination of cases already occur to some extent, but there is a strong need to create more comprehensive and systematic means of information sharing. The success of coordination efforts largely depends upon court personnel; the personnel of civil courts must understand the regulations, laws, and practices of the criminal court and vice versa, and both must be receptive to coordination.

In order to overcome obstacles to further coordination, the report makes a number of recommendations, including: study the implications of greater coordination between the courts, specifically including critical legal and ethical issues of confidentiality; delineate the extent and nature of coordination difficulties in detail; evaluate recent reforms; test innovative practices; increase training and support for court personnel; and, enhanced resources for the courts.

THE DOMESTIC VIOLENCE JUDICIAL PROCESS

WHAT IS DOMESTIC VIOLENCE?

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. § 741.28(1), Fla. Stat (2002). “Family or household member” means “spouses, former spouses, persons related by blood or marriage, persons who are presently residing together as if a family or who have resided together in the past as if a family, and persons who have a child in common regardless of whether they have been married. With the exception of persons who have a child in common, the family or household members must be currently residing together or have in the past resided in the same single dwelling unit.” § 741.28(3), Fla. Stat. (2002)¹

PETITION FOR INJUNCTION FOR PROTECTION AGAINST DOMESTIC VIOLENCE

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. Parties are not required to be represented by an attorney. § 741.30(1)(f), Fla. Stat. Until recently, a fee was assessed; however, filing fees for domestic violence petitions were eliminated by the 2002 Legislature. § 741.30(2)(a), Fla. Stat. Clerks of court are

¹ Section 741.28(3) was amended in 2002 to clarify the application of the requirement that individuals must have resided in the same single dwelling unit.

required to provide assistance to petitioners such as simplified forms for the injunction, any modifications, and enforcement. § 741.30(2)(c) Fla. Stat.

Upon the filing of a petition, the court must set a hearing to be held at the earliest possible time. § 741.30(4), Fla. Stat. If the court believes that an immediate and present danger of domestic violence exists, the judge may grant a temporary injunction *ex parte*, pending a full hearing. § 741.30(5)(a), Fla. Stat. The temporary injunction may provide such relief as the court deems proper, including an order:

- Restraining the respondent from committing acts of domestic violence;
- Providing the petitioner temporary exclusive use of property that the parties share or excluding the respondent from the residence of the petitioner; and
- Granting the petitioner the temporary custody of minor children.

§ 741.30(5)(a)1-3, Fla. Stat. The temporary injunction is effective for a fixed period, not to exceed fifteen days. If the court denies an *ex parte* temporary injunction, this must be done by written order noting the legal grounds for the denial. § 741.30(5)(b), Fla. Stat. If the only ground for denial is that there is no appearance of an immediate and present danger of domestic violence,

the court must set a full hearing with notice on the petition at the earliest possible time. § 741.30(5)(b), Fla. Stat.

A full hearing must be set no later than the date that the temporary injunction ceases to be effective. § 741.30(5)(c), Fla. Stat. Respondents receive notice of the hearing by personal service, at which time they receive a copy of the petition, financial affidavit, uniform child custody jurisdiction and enforcement affidavit, if any, notice of hearing and temporary injunction, if any. § 741.30(4), Fla. Stat. The court may grant a continuance of the full hearing for good cause which shall include a continuance to obtain service of process on the respondent. § 741.30(5)(c), Fla. Stat. If a continuance is granted, any temporary injunction will be extended if necessary, to remain in full force and effect during the continuance period. § 741.30(5)(c), Fla. Stat.

HEARING AND FINAL JUDGMENT ON INJUNCTIONS

The full hearing takes place after notice to the respondent. § 741.30(6)(a), Fla. Stat. The court will make a determination as to whether the petitioner is the victim of domestic violence or has reasonable cause to believe he or she is in imminent danger of becoming a victim of domestic violence. § 741.30(6)(a), Fla. Stat. The court may then grant relief as it deems proper, which may include:

- Restraining the respondent from committing domestic violence;
- Providing the petitioner temporary exclusive use of property the parties share or excluding the respondent from the residence of the petitioner;
- Granting the petitioner the temporary custody of minor children;
- Establishing temporary support for children or the petitioner;
- Ordering the respondent to participate in treatment, including approved batterers' intervention programs;
- Referring the petitioner to a certified domestic violence center; and
- Other relief as necessary for the protection of the victim.

§ 741.30 (6) (a) (1-7) Fla. Stat.² Within 24 hours after the court issues an injunction, the clerk of court must forward a certified copy of the injunction to the sheriff who must serve it on the respondent. § 741.30, Fla. Stat. Florida Statutes provide that upon receipt from the clerk that the sheriff shall "serve [the injunction] on the respondent as soon there after as possible on any

² The statute was amended to include ten factors that the court must consider in determining whether the petitioner has reasonable cause to believe that he or she is in imminent danger of becoming a victim of domestic violence. See §741.30(6)(b) 1-10 Fla. Stat. 2002.

day of the week and at any time day or night." § 741.30(8)(a)1, Fla. Stat. (2002). The terms of the injunction shall remain in effect until the injunction is dissolved or modified. § 741.30(6)(b), Fla. Stat. The terms of the injunction are enforceable in all counties in Florida and law enforcement officers may use their arrest powers. § 741.30(6), Fla. Stat.

BATTERERS' INTERVENTION PROGRAMS

The court may order the respondent to attend a batterers' intervention program. Such a program generally must be ordered if:

- The respondent is found to have willfully violated the *ex parte* injunction;
- The respondent has previously been convicted of or plead nolo contendere to a "crime involving violence or a threat of violence;" and
- The respondent has had a prior injunction for protection issued against him or her.

§ 741.30, Fla. Stat. If the court decides not to order batterers' intervention, the court must make a written factual finding in its judgment or order stating why such a program is not appropriate. § 741.30(6), Fla. Stat.

VIOLATIONS OF INJUNCTIONS FOR PROTECTION AGAINST DOMESTIC VIOLENCE

Willful violations of domestic violence injunctions are first-degree misdemeanors. § 741.31(4)(a), Fla. Stat. Some examples of violations include:

- Refusing to vacate the dwelling that the parties share;
- Going to the petitioner’s residence, school, place of employment, or a specified place frequented by the petitioner and any named household member;
- Committing an act of domestic violence against the petitioner;
- Committing any other violation of the injunction through an intentional unlawful threat, word, or act to do violence to the petitioner; and
- Telephoning, contacting, or otherwise communicating with the petitioner directly or indirectly, unless the injunction allows for indirect contact through a third party.

§ 741.31(4)(a)(1-5), Fla. Stat.3(1999)
A person with an injunction entered against him or her may not have in his or her care, possession, custody, or control any firearm or ammunition; a violation of this provision is a first-degree

³ Additional violations were added in 2002. See § 741.31(4)(a) 1-8, Fla. Stat. (2002).

misdemeanor. § 741.31(4)(b)(1), Fla. Stat. Exemptions may apply to law enforcement officers performing official duties. § 741.31(4)(b)2, Fla. Stat.

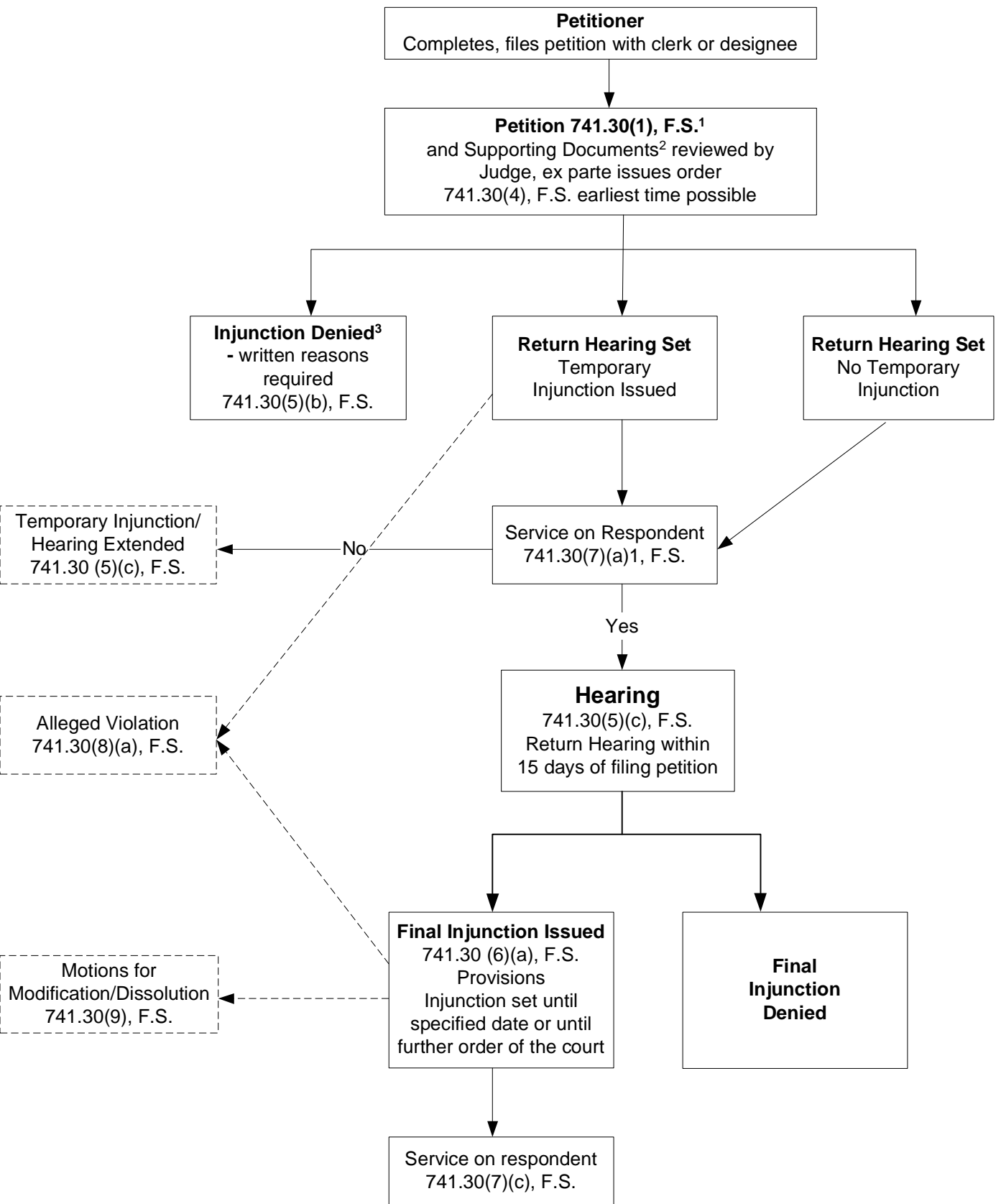
A person suffering injury or losses as a result of a violation of an injunction may be awarded economic damages by the court. § 741.31(6), Fla. Stat. Violators may be arrested at the time of the incident or the petitioner may file an affidavit in support of the violation at the clerk’s office in the circuit where the violation occurred. § 741.31(1), Fla. Stat. Any such affidavit must be sent by the clerk to the court and state attorney’s office. If the affidavit alleges that a crime has been committed, a copy must also be forwarded to the appropriate local law enforcement agency so that an investigation can be completed within 20 days and a report forwarded to the state attorney. § 741.31(2), Fla Stat. The state attorney’s office must determine a course of action within 30 business days. Options include: filing criminal charges; preparing a motion for an order to show cause; preparing both as alternative findings; or filing a notice that the case remains under investigation or is pending subject to some other action. § 741.31(2), Fla. Stat.

The court may also take action if, based on its familiarity with the case, it has knowledge that the petitioner, the children of the petitioner, or another person is in immediate danger if the court fails to act prior to a determination by the state attorney. § 741.31(3), Fla. Stat. In

these cases the court may issue an order of appointment of the state attorney to file a motion for an order to show cause or notify the state attorney that the court is proceeding to enforce the injunction through criminal contempt. § 741.31(3), Fla. Stat. Regardless of whether there is a criminal prosecution for the violation, the court must order the

respondent to attend a batterers' intervention program if it finds a willful violation of the injunction. § 741.31(5), Fla. Stat. The court may only waive this provision if makes factual findings in its judgment or order stating why such a program would be inappropriate. § 741.31(5), Fla. Stat.

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

SECTION TWO: THE PROCESSING OF DOMESTIC VIOLENCE INJUNCTION CASES

The first section below describes the processes used in each county and the roles played by key participants in the process of handling domestic violence injunction cases as reported to the assessment team; the second section summarizes the courtroom procedures observed in each county by members of the research team during the site visits.

CASE PROCESSING – COUNTY PROFILES

The following descriptions below are based upon observations and interviews conducted with judges, Clerks of the Court, Court Administration personnel, and advocates, and a review of written materials when available. Input from key participant surveys is also included to complement the case processing information.

1ST JUDICIAL CIRCUIT – SANTA ROSA COUNTY

The Family Law Division of the Clerk of the Court's Office is located in the Santa Rosa County Courthouse in downtown Milton. The Clerk's Office provides forms, information, and assistance to petitioners, as well as access to the Domestic Violence (DV) Coordinator and/or a DV advocate when petitioners need further assistance during the intake process. The Clerk of the Court's staff provides

information to litigants regarding scheduled hearings, assist petitioners in completing affidavits of violation, attend all injunction hearings, and provide copies of orders to litigants.

Domestic violence coordinators employed by Court Administration monitor compliance with court orders. It is also reported that the court will issue an arrest order when a respondent has not complied with Batterers Intervention Program participation and the Order to Show Cause cannot be served because the respondent failed to notify the Court of a change of address. The Santa Rosa Sheriff's deputies note on their documentation of service forms whether the respondents surrendered firearms to the deputy at the time of service if ordered to do so in the injunction order; if the respondents state they do not possess firearms or ammunition, the deputies have the respondents sign a statement to that effect.

Additionally, a local community response team meets regularly with a goal of ensuring an effective, coordinated response to domestic violence cases. The group includes representatives from the judiciary, court administration, the local domestic violence center, the State Attorney's Office, the county Probation Office, the Sheriff's Department, and the Clerk's Office.

Santa Rosa has a dedicated prosecutor and a dedicated circuit court judge for DV criminal cases, as well as a probation officer on call 24 hours a day who handles only DV criminal cases and DV injunction violations.

COMMUNITY SERVICES AVAILABLE IN SANTA ROSA COUNTY
<ul style="list-style-type: none"> • Batterers’ Intervention Program (BIP) • Supervised Visitation Program • Substance abuse assessment and treatment • Mental health assessment • Anger management • Domestic Violence Victim/Survivor Program and services

2ND JUDICIAL CIRCUIT - LEON COUNTY

In Leon County, the Clerk of the Court’s staff directs individuals wishing to file a petition for an injunction to the Refuge House DV Advocate’s office; Refuge House is the local domestic violence center. The advocate’s office is located down the hall from the Clerk’s office on the main floor of the Leon County Courthouse in Tallahassee. The Clerk provides office space for the Refuge House Advocacy staff, which includes two full-time advocates and several part-time volunteers and interns.

The Advocacy office offers a private environment and has a play area with toys and books available for the children of petitioners. The

Refuge House advocates provide forms and assistance to petitioners seeking either domestic violence or repeat violence injunctions. The office also provides information on the injunction process, counseling, referrals, and assistance with affidavits of violation/orders to show cause.

Upon completion of the appropriate paperwork, petitioners return to the Clerk’s office to sign and file all documents. Generally, petitioners must return to the courthouse the next day to obtain a copy of the judge’s initial order in response to the petition. In addition to these functions, Refuge House staff frequently accompany petitioners to hearings.

The Clerk’s Office files and certifies documents, creates case files checks for other pending cases involving the parties, provides case files to the judges, prepares and provides copies of orders to litigants, and handles notices of non-compliance.

COMMUNITY SERVICES AVAILABLE IN LEON COUNTY
<ul style="list-style-type: none"> • Batterers’ Intervention Program (BIP) • Mental health assessment and treatment • Anger management • Supervised visitation program • Court advocacy services for petitioners

4TH JUDICIAL CIRCUIT - NASSAU COUNTY

The Clerk's Office in Nassau County is located in the county courthouse in Yulee, where individuals seeking an injunction are provided with forms and assistance. The Clerk's staff explains the injunction process, informs petitioners of the availability of a DV advocate, and refers petitioners to the advocate at their request. Additional responsibilities of the Clerk's Office include: communicating with litigants regarding scheduled hearings; processing notices of non-compliance; cross-checking for other civil or criminal cases involving the same parties; and preparing orders to show cause for judicial review.

The Clerk has provided the local DV center, Hubbard House in Jacksonville, with office space. The Hubbard House advocate provides information, assistance, and referrals to petitioners courthouse annex in Yulee, where individuals seeking an injunction are provided with forms and assistance. The Clerk's office has a glass-enclosed office within the civil office with a desk and chair for petitioners to use in completing their paperwork. The Clerk's staff explains the injunction process and informs petitioners who have requested help.

COMMUNITY SERVICES AVAILABLE IN NASSAU COUNTY

- The local domestic violence center provides court advocacy services, including:
 - Staffing of a courthouse office
 - Assistance in preparing petitions
 - Accompanying petitioners to their hearings
 - Assistance to petitioners during the hearings
 - Referrals to non-court programs, including the domestic violence center

5TH JUDICIAL CIRCUIT - CITRUS COUNTY

The Family Law Division of the Clerk of the Court's Office is located in the Citrus County Courthouse in downtown Inverness. The Clerk's Office provides forms, information, and assistance to petitioners, and provides access to the Court Administration DV Coordinator or a DV advocate from the local domestic violence center when petitioners need further assistance during the intake process. The Clerk's staff also provides information to litigants regarding scheduled hearings, assists petitioners in completing affidavits of violation, attends all injunction hearings, processes notices of non-compliance, and provides copies of orders to litigants.

The Court Administration DV coordinator provides various case management services, including: tracking cases through the court system; monitoring compliance with

provisions of injunctions; escorting respondents for court-ordered drug tests; providing petitioners with information and referrals to the local DV centers; attending injunction hearings to track cases and compliance and to provide immediate assistance to petitioners, particularly those who request dismissal of their cases.

COMMUNITY SERVICES AVAILABLE IN CITRUS COUNTY
<ul style="list-style-type: none"> • The local domestic violence center provides the following court advocacy services: <ul style="list-style-type: none"> ♦ Assist in preparing petitions ♦ Accompany petitioners to their hearings ♦ Follow-up with petitioners who failed to appear or requested dismissal ♦ Referrals to non-court programs, including the domestic violence center • Batterers' Intervention Program (BIP) • Substance abuse assessment and treatment • Mental health assessment and treatment • Parenting classes

6TH JUDICIAL CIRCUIT - PINELLAS COUNTY

Individuals in Pinellas County who wish to obtain an injunction for protection acquire the forms and assistance needed from the Clerk of the Court's Office at the Pinellas County courthouse in Clearwater, or they may go to one of three other Clerk's Office locations: the North

County Branch; the Mid-County Branch, or the South County Branch. The arrangements described here refer to the Civil Court Records Division at the Pinellas County Courthouse in Clearwater.

The Civil Court Records Division is located on the main floor of the county courthouse. Once a petitioner informs the Clerk's staff that she/he is requesting an injunction, that individual is escorted into a secure office area, where there is a DV room for petitioners to complete their paperwork in a private, quiet environment. The DV room contains a permanent desk/workstation for the Deputy Clerk, a desk for the DV advocate from the local DV center, who is on site most of the time, and a table and chairs for petitioners to use. Additionally, the room contains toys and a play area for the children of petitioners.

The Clerk's Office staff provides forms, information, and assistance to petitioners, and access to the DV advocate when petitioners need further assistance during the intake process. Clerk's staff provides information to litigants regarding scheduled hearings, assist petitioners in completing affidavits of violation, monitor compliance, attend all injunction hearings, and provide copies of orders to litigants. For temporary injunctions in DV cases, the Clerk's Office routinely provides copies of the court's orders to the Center Against Spouse Abuse

(CASA), one of the local DV centers in Pinellas County, to assist CASA in managing and coordinating their clients' cases.

Court administration staff provides case management services, including: attending injunction hearings; explaining the court process to litigants; preparing of orders to show cause and injunction orders for judicial review; identifying of past or pending civil cases; contacting petitioners who fail to appear; monitoring respondent compliance; providing information for litigants regarding hearings; providing referrals to non-court programs, and working with petitioners who have requested dismissal of their injunctions.

COMMUNITY SERVICES AVAILABLE IN PINELLAS COUNTY

- The local domestic violence center provides the following court advocacy services:
 - ♦ Staff at courthouse office
 - ♦ Assistance in preparing petitions
 - ♦ Accompany/assist petitioners during hearings
 - ♦ Follow-up with petitioners who failed to appear or requested dismissal
 - ♦ Referrals to non-court programs, including the domestic violence center
- Batterers' Intervention Program (BIP)
- Substance abuse assessment and treatment
- Mental health assessment and treatment; trauma therapy

7TH JUDICIAL CIRCUIT - VOLUSIA COUNTY

Individuals in Volusia County who wish to obtain an injunction for protection may obtain the forms and assistance needed from the Clerk of the Court's Office at the Volusia County courthouse in Deland, or they may go to the Clerk's Office at one of two courthouse annexes: one in Daytona Beach and one in New Smyrna Beach.

At the Family Law Division in the Clerk's Office at the Volusia County Courthouse in DeLand, the Clerk's Office provides forms and assistance to petitioners, assists petitioners in completing affidavits of violation, monitors compliance, and provides copies of court orders to the litigants. Petitioners complete their forms at a public counter.

Court administration staff provides case management services, including: attending injunction hearings; explaining court process to litigants; preparing of orders to show cause for judicial review; identifying past or pending civil and criminal cases; contacting petitioners who fail to appear; monitoring respondent compliance; providing information for litigants regarding hearings; providing referrals to non-court programs and working with petitioners who have requested dismissal of their injunctions.

COMMUNITY SERVICES AVAILABLE IN VOLUSIA COUNTY

- Batterers' Intervention Program (BIP)
- Substance abuse assessment and treatment
- Mental health assessment and treatment
- Anger management
- Family counseling

8TH JUDICIAL CIRCUIT - ALACHUA COUNTY

Individuals in Alachua County who wish to obtain an injunction for protection may obtain the forms and assistance needed from the Clerk of the Court's Office at the Alachua County courthouse in Gainesville. The Clerk's Office provides forms and assistance to petitioners, aids petitioners in completing affidavits of violation, monitors compliance, and provides copies of court orders to the litigants. Petitioners complete their forms at a public counter.

Court administration staff provides case management services, including: attendance at injunction hearings; preparation of orders to show cause for judicial review; and mediate details of child custody and support after the injunction has been issued.

COMMUNITY SERVICES AVAILABLE IN ALACHUA COUNTY

- Batterers' Intervention Program (BIP)
- Substance abuse assessment and treatment
- Mental health assessment and treatment
- Anger management
- Supervised visitation program

11TH JUDICIAL CIRCUIT - MIAMI-DADE COUNTY

Individuals seeking to file a petition for domestic violence or repeat violence are sent or referred to the Domestic Violence Intake Unit (DVIU) of the Administrative Office of the Court, which has an office at each of the following locations: Lawson E. Thomas Courthouse Center (downtown Miami); the North Dade Justice Center; and, the South Dade Government Center. A county-wide domestic violence hotline is answered by the DVIU during business hours, and an information booth in the lobby of the Courthouse Center provides directions to the DVIU for domestic/repeat violence injunctions.

The specialized DV Intake Unit has a secured entrance, and sign-in is required at the front window. Forms and assistance are provided in Spanish and English. The petitioners are given the petition and other relevant forms to complete. Each petitioner is also given information on the system

and procedures regarding injunctions. Intake counselors review the paperwork, collect any further data needed, and assist with the development of safety plans. Referrals to services such as shelter, child care, housing, financial resources, and other social service needs are provided as necessary.

The office is equipped with technology that enables electronic entry and forwarding of information to the Clerk's Office, where the injunction forms are printed out and signed by the petitioners. The Clerk's Office checks to see if any companion injunction cases have been filed or if there are any pending family law cases involving the same litigants.

Case management services are provided by the Court Unit of the Domestic Violence Division, staffed with Court Coordinators acting as case managers. These coordinators are attorneys. They primarily disseminate factual and procedural information to litigants and do not offer legal advice. They assist the Court in permanent injunction hearings by acting as liaison between the Clerk, the Court, and the litigants. In addition, they provide monitoring of compliance with injunctions, conduct background checks, calculate child support recommendations, and prepare Orders to Show Cause for violations.

**COMMUNITY SERVICES AVAILABLE IN
MIAMI-DADE COUNTY**

- Batterers' Intervention Program (BIP)
- Substance abuse assessment and treatment
- Mental health assessment and treatment
- Anger management
- Supervised visitation program

**12TH JUDICIAL CIRCUIT - MANATEE
COUNTY**

Individuals seeking injunctions for protection from domestic or repeat violence begin the process at the Violence Protection Advocate Division (VP) of the Clerk of the Court's Office in the courthouse in Bradenton. The clerk's staff provides forms, assists petitioners in completing forms, and explains the procedures involved in filing the petition.

The Clerk's Office takes an active role regarding compliance with injunction orders. An Injunction Violation Coordinator provides case management services: assisting petitioners in preparing affidavits, witness lists, and in coordinating witness appearances; corresponding with petitioners on case status; coordinating the distribution of paperwork among State Attorney, Clerk, and Sheriff; arranging for service on respondents when an order to appear is issued; reviewing court files to avoid duplicate prosecutions; and attending

depositions and, if necessary, ensuring the attendance of an attorney when the petitioner is deposed; coordinating communication between petitioners/victims and prosecutor and; attending all court hearings to assist the petitioner, the Court, and the prosecutor.

The VP Division staff may refer petitioners to the HOPE office, the local DV center, for additional assistance and/or for Spanish-English translation services. The HOPE advocacy staff assists the petitioner in completing the petition. The Clerk’s Office along with HOPE Family Services coordinates the SafeCall program, which provides victims of domestic violence with use of a cellular phone at no charge to call 911.

Court administration staff members provide case management services to litigants.

COMMUNITY SERVICES AVAILABLE IN MANATEE COUNTY
<ul style="list-style-type: none"> • Domestic violence center - court advocacy services for petitioners, including: <ul style="list-style-type: none"> ♦ Assist in preparing petitions ♦ Accompany petitioners to their hearings ♦ Assist petitioners during the hearings ♦ Follow-up with petitioners who failed to appear or requested dismissal ♦ Referrals to non-court programs, including the domestic violence center

- ♦ Safety planning
- Batterers’ Intervention Program (BIP)
- Substance abuse assessment and treatment
- Mental health assessment and treatment
- Anger management
- Supervised visitation program

14TH JUDICIAL CIRCUIT - CALHOUN COUNTY

Individuals in Calhoun County who wish to obtain an injunction for protection may acquire the forms needed from the Clerk of the Court’s Office at the Calhoun County courthouse in Blountstown. The Clerk’s Office provides forms and assistance to petitioners, assists petitioners in completing affidavits of violation, handles notices of non-compliance, and provides copies of court orders to the litigants. Petitioners complete their forms at a public counter.

Court administration staff members provide services, including: explanation of the process to litigants; facilitation of stipulated agreements; and referrals to non-court programs, including the domestic violence center.

**COMMUNITY SERVICES AVAILABLE IN
CALHOUN COUNTY**

- Domestic violence center - court advocacy services for petitioners, including:
 - ♦ Assist in preparing petitions
 - ♦ Accompany petitioners to their hearings
 - ♦ Assist petitioners during the hearings
 - ♦ Follow-up with petitioners who failed to appear or requested dismissal
 - ♦ Referrals to non-court programs, including the domestic violence center
- Substance abuse assessment and treatment
- Mental health assessment and treatment
- Anger management
- Supervised visitation (new program)

15TH JUDICIAL CIRCUIT - PALM BEACH COUNTY

Individuals in Palm Beach County who wish to obtain an injunction for protection may acquire the forms needed from the Clerk of the Court's Office at the following locations: the central office at the Palm Beach County Courthouse in West Palm Beach; the south county office in Delray Beach; the mid-county office in Royal Palm Beach; the north county office in Palm Beach Gardens; and, the west county office in Belle Glade.

The Clerk's Domestic Violence/Repeat Violence Unit (DV/RV Office) is generally the initial

point of contact for domestic violence petitioners, however court administration staff may perform intake as well. This unit has an office separate from the rest of the Clerk's office, with a separate entrance and interior and hallway waiting areas. Petitioners are provided with the petition and other necessary paperwork by Deputy Clerks, who also provide assistance with the completion of the paperwork.

When the petitioner needs additional assistance or support, she/he is referred to the DV Intake Unit (DVIU), which is part of court administration. DVIU counselors conduct a brief assessment for DV or RV, provide appropriate forms, and assist the petitioner in completing paperwork. The DVIU also provides petitioners with support, a children's play area for petitioners with children, and information/referrals to community resources.

The local Legal Aid Society provides legal assistance to petitioners at their request and upon referral by the DV/RV Office or the DVIU, including providing representation at hearings and facilitating negotiated agreements prior to hearings. The Victim Services Office in the courthouse provides crisis intervention and supportive counseling, court accompaniment, social service and legal referrals, and other relevant services.

Court administration staff provide case management services,

including: preparing injunction orders for judicial review; monitoring compliance; helping parties identify issues to develop stipulated agreements.

**COMMUNITY SERVICES AVAILABLE IN
PALM BEACH COUNTY**

- Domestic violence center - court advocacy services for petitioners, including:
 - ♦ Assist in preparing petitions
 - ♦ Accompany petitioners to their hearings
 - ♦ Assist petitioners during the hearings
 - ♦ Follow-up with petitioners who failed to appear or requested dismissal
 - ♦ Referrals to non-court programs, including the domestic violence center
- Legal Aid Society office in the courthouse provides legal services to petitioners
- The Palm Beach County Public Safety Department - Victim Services Office
- Batterers' Intervention Program (BIP)
- Substance abuse assessment and treatment
- Mental health assessment and treatment
- Parent education
- Supervised visitation

**18TH JUDICIAL CIRCUIT - SEMINOLE
COUNTY**

Individuals seeking an injunction against domestic or repeat

violence are referred to the Safehouse Seminole Court Advocacy Program located at the State Attorney's Office approximately one block from the courthouse. Safehouse is the local domestic violence center which provides and staffs the Court Advocacy Program. This program assists and guides petitioners through the court process.

Advocates assist petitioners in completing forms and, when necessary, they also take photographs to document visible injuries suffered by petitioners. Safehouse advocates also conduct safety assessments, develop safety plans, and make appropriate referrals for further services as needed. Safehouse also has a contract with Legal Services to provide help to petitioners with complicated injunction cases.

Once the petitioner has completed the appropriate forms, he/she is directed to the Clerk of the Court's Office at the courthouse for signature and filing.

COMMUNITY SERVICES AVAILABLE IN SEMINOLE COUNTY

- Domestic violence center - court advocacy services for petitioners, including:
 - ♦ Staff a courthouse office
 - ♦ Assist in preparing petitions
 - ♦ Accompany petitioners to their hearings
 - ♦ Follow-up with petitioners who failed to appear or requested dismissal
 - ♦ Referrals to non-court programs, including the domestic violence center
- Batterers' Intervention Program (BIP)
- Substance abuse assessment and treatment
- Mental health assessment
- Anger management

19TH JUDICIAL CIRCUIT – OKEECHOBEE COUNTY

Individuals in Okeechobee County who wish to obtain an injunction for protection may obtain the forms needed from the Clerk of the Court's Office at the county courthouse in Okeechobee. The staff of the Clerk of the Court's Office provide forms, information, and assistance to petitioners. The clerk's staff also handles affidavits of violation. Petitioners complete their forms at a public counter.

Court administration staff members provide limited case management services, including monitoring respondent compliance.

COMMUNITY SERVICES AVAILABLE IN OKEECHOBEE COUNTY

- Supervised visitation

20TH JUDICIAL CIRCUIT - LEE COUNTY

Individuals seeking an injunction for protection from domestic violence or repeat violence begin the process at the Domestic Violence Division Office in the Lee County Justice Center in downtown Ft. Myers. The DV Division is a specialized unit of Court Administration developed to assist pro se litigants with Injunctions for Protection. Staff members are appointed as deputy clerks, so the petitions can be processed completely within the DV Division office.

The intake staff provides assistance to litigants in completing paperwork, procedural information about the court process, and referrals to community agencies. The DV Division also has a playroom for the children of petitioners, court interpreters to assist with all legal proceedings, and immediate counseling provided by a victim advocate from Abuse Counseling and Treatment (ACT), the local DV center. Once the petitioner has filled out the paperwork, the staff member enters the data into an automated system (CJIS) developed for court administration; this information system is shared with the State Attorney's Office, the Public Defender's Office, and the Witness

Management Unit of Court Administration. When the petitioner has visible injuries, the staff member takes a digital photograph, which is also captured in the CJIS system. The staff member assigns a case number (from a list provided by the Clerk’s Office) and generates printed forms with the petitioner’s information. Three deputies at the Lee County Sheriff’s Office are dedicated to service of court orders.

Court administration staff provides case management services, including monitoring respondent compliance with court conditions, assisting with motions, setting hearings, and help parties identify issues to develop stipulated agreements.

COMMUNITY SERVICES AVAILABLE IN LEE COUNTY
<ul style="list-style-type: none"> • Batterers’ Intervention Program (BIP) • Substance abuse assessment and treatment • Mental health assessment and treatment • Anger Management • Supervised visitation

COURT OBSERVATIONS – ALL COUNTIES

The assessment team observed and documented domestic violence injunction hearings in each of the 14 counties from July-September, 2002. The procedures documented addressed a number of salient issues

in domestic violence cases.

Security practices to protect the safety of litigants -

As demonstrated both by research and practice, the safety of litigants, particularly petitioners, is a paramount concern in domestic violence injunction cases. Security in the courthouse and the courtroom involves separation of the parties in the waiting area and in the courtroom, delaying respondents’ departure after the conclusion of the hearing to give the petitioner a “head start”, and bailiffs present in the waiting areas as well as the courtroom.

Court procedures in docketing cases and handling final orders -

The ways in which cases are scheduled have implications for security and separation of parties in the waiting areas and in the courtroom. When all litigants are noticed to appear at the same time, there may be a considerable number of petitioners and respondents in the waiting area or the courtroom, emphasizing the need for both separation of the parties and bailiffs’ presence in those areas.

The explanation of the provisions of injunction orders reinforces the authority of the court to impose conditions upon respondents and to require compliance with those conditions. The provision of orders at the conclusion of the hearing accomplishes service on the respondent immediately.

The availability of assistance or support for litigants during the court hearing - Domestic violence cases often involve elevated emotions and complex legal issues, so the availability of assistance for litigants in the courtroom was also documented. Such assistance is generally available from domestic violence coordinators or case managers, employees of court administration, as well from domestic violence advocates who are employed by local domestic violence centers and law enforcement agencies.

Workload measures - In order to gain a better understanding of the court system's workload with regard to domestic violence cases, the research team documented the

number of cases disposed and the length of time taken for each hearing. The number of cases heard includes all cases regardless of disposition, and the hearing duration indicates the actual hearing time, i.e., breaks and recesses are not included in the hearing duration.

The following tables provide an overview of courtroom practices in all counties included in the assessment. It is important to note that the practices documented here were those observed on one day in one courtroom; therefore, they may or may not accurately represent the practices customarily used throughout the county or the judicial circuit.

SECURITY AND ASSISTANCE:

CIRCUIT	COUNTY	SEPARATION OF PARTIES			BAILIFFS		OTHER STAFF	
		IN THE WAITING AREA	IN THE COURTROOM	LITIGANT DEPARTURE DELAYED	PRESENT IN THE WAITING AREAS	NUMBER IN COURTROOM	DV COORDINATOR PRESENT	DV ADVOCATE PRESENT
1 st	Santa Rosa	X	X	X	X	2-3	X	
2 nd	Leon			X	X	2-3		X
4 th	Nassau	NA	X		X	2-3		X
5 th	Citrus	X	NA		X	2-3	X	
6 th	Pinellas		X	X	X	4		X
7 th	Volusia		X		X	3		
8 th	Alachua		X		X	2		X
11 th	Miami-Dade	X	X	X	X	3	X	
12 th	Manatee	X	X	X	X	2		X
14 th	Calhoun				X	2		
15 th	Palm Beach	NA	X	X	X	3-4		X
18 th	Seminole		X	X*	X	3		X
19 th	Okeechobee			X		2		
20 th	Lee	X	X	X	X	3	X	X

*The petitioners' departures were delayed rather than the departures of respondents.

COURT PROCEDURES:

CIRCUIT	COUNTY	CASE DOCKETING/SCHEDULING			ORDERS		WORKLOAD	
		TIME CERTAIN	TIME INCREMENTS (E.G., HOURLY, ½ HOURLY)	ALL PARTIES NOTICED TO APPEAR AT THE SAME TIME	PROVIDED AT CONCLUSION OF HEARING	PROVISIONS EXPLAINED TO LITIGANTS	NUMBER OF CASES HANDLED	HEARING DURATION (HOURS: MINUTES)
1 st	Santa Rosa			X	X	X	16	2:00
2 nd	Leon			X	X	X	Not collected*	Not collected*
4 th	Nassau			X		X	8	1:00
5 th	Citrus	X			X	X	7	1:10
6 th	Pinellas		X		X	X	15	2:30
7 th	Volusia			X	X		12	3:10
8 th	Alachua			X	X	X	22	2:00
11 th	Miami-Dade		X		X	X	18	2:25
12 th	Manatee		X		X	X	13	2:00
14 th	Calhoun			X	X		5	0:20
15 th	Palm Beach		X		X	X	31	3:55
18 th	Seminole			X	X		16	2:00
19 th	Okeechobee			X	X	X	23	3:50
20 th	Lee		X		X	X	32	3:00

*The research team inadvertently omitted the collection of this data in Leon County.

SECTION THREE – INPUT FROM KEY PARTICIPANTS

KEY PARTICIPANTS – SURVEY RESPONSES

In order to gather input regarding the current system and solicit suggestions for improvement, surveys were distributed to key participants in each of the 14 counties included in the assessment. The following groups were surveyed:

- Judges who hear domestic violence injunction cases;
- Court administration staff;
- Clerks of the court;
- Bailiffs;
- Domestic violence advocates;
- Litigants (petitioners and respondents);
- Public defenders;
- State attorneys;
- Batterers’ Intervention Program providers; and
- Supervised visitation providers.

The survey instruments were designed to capture information and opinions from each group based upon their role and perspective within the court system. The following sections describe:

- Effectiveness
- Practices
- Improvements
- Challenges
- Experience of litigation and responsibility
- Other issues

THE EFFECTIVENESS OF THE COURT PROCESS

Effectiveness and fairness have long been considered critical to the application of justice in the State of Florida. Key professionals were surveyed about their opinions of the effectiveness of the domestic violence injunction process using a five point rating scale; the higher the rating, the higher the level of agreement that current court processes effectively handle domestic violence injunctions. The average rating was calculated for each group of professionals to provide an overall view of effectiveness.

On average, judges, bailiffs and court staff were the most positive in their opinions of the effectiveness of current processes, as indicated by the highest mean scores. Batterers’ Intervention Program (“BIP”) providers, Public Defenders, and domestic violence advocates were the least positive in their view of the effectiveness of current processes, as reflected by the lowest mean scores. State attorneys and supervised visitation program providers’ ratings fell into the mid-

range of average scores, indicating a generally positive view of the effectiveness of court processes. The table below illustrates the average or

mean score given by each profession regarding the effectiveness of current court processes in handling domestic violence injunction cases.

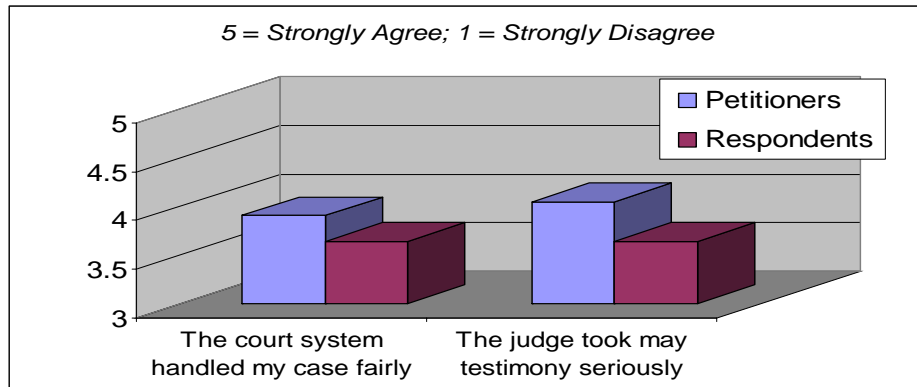
KEY PARTICIPANTS IN THE COURT SYSTEM – RESPONSES		
The current process effectively handles domestic violence injunctions.		
<i>5 = Strongly Agree 4 = Agree 3 = Neither 2 = Disagree 1 = Strongly Disagree</i>		
Key Participant	n	Mean
Judges	34	4.16
Court Staff	25	3.83
Bailiffs	26	3.88
Advocates	19	3.16
Public Defenders	7	2.86
State Attorneys	15	3.33
BIP Providers	48	2.73
Sup. Visitation	10	3.5

Because litigants’ exposure to court processes is generally limited to their experiences with their own cases, they were asked questions specific to their cases rather than about the court processes in general. Litigants were surveyed about their opinions regarding several aspects of their domestic violence injunction cases. Clerk of the Court staff distributed the surveys to litigants at the conclusion of their case hearings. All questions used a five point rating scale; the higher the rating, the higher the level of agreement with the question posed. Therefore, higher scores indicate more positive ratings. The average rating was calculated for all petitioners and all

respondents to provide an overall view of their opinions.

As shown below, on the average, petitioners rated the fairness of the court system slightly higher than did respondents, as indicated by the higher mean score. Petitioners also agreed more strongly than respondents that the judges took their testimony seriously, again reflected in the higher mean score. The scores below show a generally positive opinion of the fairness of the court system and that litigants felt the judges took their testimony seriously.

LITIGANT PERCEPTION OF COURT PROCESS



PRACTICES THAT WORK WELL AS REPORTED BY SURVEY PARTICIPANTS

All survey participants were asked to identify practices they believe work well in the handling of domestic violence injunction cases. Their responses are summarized below.

Interagency coordination among judges, court administration staff, Clerks' staff, law enforcement, and advocates - Survey participants identified case planning and coordination, case consolidation, information sharing, and working as a team as examples of effective coordination. They noted that all litigants are served more effectively when coordination and communication occur as needed. In four counties, the Clerks' offices were cited as being particularly effective in managing paperwork and processes.

Providing assistance to petitioners early in the process - Assistance is provided by specialized units within the clerk's office or within court administration. In several counties, all intake interviews and initial assistance are provided by domestic violence advocates who staff

courthouse offices. Such assistance included referrals to counseling and other supportive services, and the development of safety plans. Appropriate physical arrangements at intake, such as secure, private areas in which to complete paperwork and receive assistance were cited as important elements of assisting petitioners.

Specialized training relative to domestic violence - The types of training provided included the dynamics of domestic violence, statutory requirements and changes, and appropriate forms and procedures. The groups receiving such training included judges, bailiffs, case managers, law enforcement, and court administration and Clerks' staff.

The rapid turnaround between filing the petition and obtaining an initial order - Ideally, petitioners should not have to return to the courthouse at a later date to receive an order.

Use of staff dedicated to handling domestic violence cases - This was identified as effective in a number of arenas, including judges,

bailiffs, case managers, probation officers, state attorneys, and state attorney investigators.

Other practices - Survey participants cited additional local practices that work well in the domestic violence injunction process, including: referral to community support services; effective law enforcement response, including timely service of orders; capitalizing on local technology resources; and increased use of input from advocates and victims.

IMPROVING THE DOMESTIC VIOLENCE INJUNCTION PROCESS

All survey participants were asked to make suggestions for improving the domestic violence injunction process. Their responses are summarized below.

Specialized training - Particularly in the dynamics of domestic violence and abuse for judges, law enforcement officers, and other court administration and clerk's staff.

Increased follow-up and compliance enforcement - When injunction violations are not brought back before the court, the petitioners are placed in potential danger and it suggests to respondents that there is no penalty for violations.

Additional, specialized staff - Staff should be dedicated to handling domestic violence cases. The types of additional staff positions suggested included judges, bailiffs, clerks, and case managers.

Additional resources - Including technology, additional courtrooms or other space, more time to handle cases, and additional services available for litigants and their families.

Changes in operational procedures - Changes suggested include "screening-out" non-DV cases, fines for petitioners who repeatedly file for injunctions and fail to appear in court, and reducing the time elapsed between filing the petition and the return hearing.

Improved interagency coordination - Developing a coordinated approach to handling domestic violence injunction cases, incorporating all components of the justice system.

Ordering respondents to participate in Batterers' Intervention Programs (BIP) - Ordering BIP treatment in cases where there is a documented history of domestic violence.

Enforcement and compliance - Participants identified the need for training on the use of contempt powers to enforce compliance with injunctions.

Faster service - Rapid service on respondents and timely filing of notice of service with the Clerk's office.

Use of alternative dispute resolution techniques - Survey responses included both support for and opposition to the use of a processes commonly referred to as

facilitation in domestic violence injunction cases. This process often involves the utilization of court staff to identify issues to develop stipulated agreements. This reflects an ongoing controversy regarding the appropriateness of using such techniques in domestic violence cases.³

CHALLENGES FACED BY CLERKS OF THE COURT

Clerks of the Court were asked to identify the most challenging aspects of handling domestic violence cases. Their responses are shown below.

- Abuse of the injunction process. Multiple injunctions; petitioners who dismiss injunctions one week later and return to the respondent.
- Frustrated/emotionally elevated customers.
- Strenuous workload. Preparing correct paperwork; keeping up-to-date with changes in laws, forms, and procedures. Time limits; service on respondents.
- Explaining the statutes to the victims without giving legal advice.

³ The facilitation process has been criticized as an unauthorized form of alternative dispute resolution in domestic violence cases and the Florida Supreme Court Family Court Steering Committee voted in May 2002 to petition the Supreme Court to limit this practice; the case is now pending before the court.

- Getting the victims to understand completely the functions of Domestic Violence and Repeat Violence injunctions. Extraction of information related to the case.
- Cases involving children.
- Inconsistency among judges in interpretations of the law and changing procedures.

THE EXPERIENCES OF LITIGANTS

Petitioners

At the conclusion of the hearings on their cases, petitioners were asked by staff in the Clerk's office to complete a survey asking for information on various aspects of their cases as well as the court system. Their answers are reported below.

- Two-thirds of all petitioners reported that they were offered information on non-court programs that could help them.
- Three-fourths of all petitioners reported that the injunction they requested was granted.
- Eighty-nine percent of all petitioners reported that someone in the court system fully explained the final injunction to them.
- Eighty-seven percent of all petitioners reported that they were given information about

how to report a violation of the injunction.

Respondents

At the conclusion of the hearings on their cases, respondents were asked by staff in the Clerk's office to complete a survey asking for information on various aspects of their cases as well as the court system. Their answers are reported below.

- Fifty-four percent of respondents reported that the injunction requested against them was granted.

In cases where the injunctions were granted:

- Eighty-three percent of respondents reported that someone in the court system fully explained the final injunction to them, as well as their responsibilities to comply with the injunction.
- Eighty percent of respondents indicated they were given paperwork explaining who to contact and enrollment deadlines for court-ordered activities.

OTHER ISSUES

Training

- More than half of the Clerks' staff members reported having received specialized training related to handling domestic violence cases. The types of training received

included: DV awareness, dynamics, and indicators; communication and interviewing skills; and statutes, forms, and procedures.

- Over two-thirds of bailiffs indicated that they have received training in managing disruptive, potentially violent litigants in domestic violence cases.

Safety

- Just over 90% of petitioners reported feeling safe in the courthouse when attending the hearing.
- More than 60% of bailiffs rated the danger in domestic violence cases as very serious; almost half of the bailiffs stated that the domestic violence injunction cases are the most dangerous hearings.
- Less than 40% of bailiffs agreed that current security measures prevent respondents from intimidating petitioners at the courthouse; almost 60% agreed that additional security beyond that provided at the courthouse entrance is needed in the domestic violence waiting areas.
- Bailiffs from seven counties noted that the petitioner is enabled to exit from the domestic violence hearing prior to the respondent. This affords the petitioner an opportunity to safely vacate the premises.

Interagency Coordination

- In four counties, advocates from the local domestic violence center staff a courthouse office; in two of those counties, the advocates perform intake duties, and provide referrals and counseling assistance.
- Domestic violence advocates reported that petitioners are most frequently referred to their agencies by law enforcement agencies and Clerk of the Court offices.
- In ten of the fourteen counties, the State Attorneys reported that they have domestic violence victim advocates.
- Less than 40% of BIP providers indicated that court staff contact their programs to inform them of new clients recently ordered to the program. Such contacts enable the BIP providers to subsequently inform the court if respondents fail to enroll or attend the program.
- Twenty percent of supervised visitation programs agreed that they are contacted by court staff when new clients are ordered to their program; one-third indicated that effective case coordination occurs between court staff and program staff.

Compliance Enforcement

- Slightly more than half of the BIP providers agreed that respondents

are held accountable by the court when they do not complete BIP.

- One-third of supervised visitation (SV) programs indicated that court staff members file violation reports/affidavits when they provide the names of respondents not complying with visitation schedules.
- A majority of the responding State Attorneys agreed that criminal prosecution is an effective way of enforcing domestic violence injunctions, while few Public Defenders agreed that criminal prosecution is effective in enforcing injunctions.
- In cases where the respondent was convicted of violating a domestic violence injunction, a majority of the State Attorneys agreed that the sentence was proportional to the offense; less than a third of public defenders agreed that the sentence was proportional to the offense in those cases.

COMMENTS FROM JUDGES

A number of judges were interviewed by the research team during site visits, and judges were included in the survey of key participants.

WHAT IS THE GREATEST CHALLENGE YOU FACE IN HANDLING DV CASES?

Pro Se litigants

- Poorly prepared petitions may not address or describe violence or may be incomprehensible.
- Poorly prepared courtroom testimony and presentation of evidence; the judge must maintain the appearance of impartiality while laboring to extract important detailed facts and ensuring due process.
- Litigants don't understand court processes and have difficulty focusing on the relevant aspects of their cases.

Determining the credibility of litigants

- Determining a course of action when the petitioner offers compelling testimony about the seriousness of domestic violence while the respondent denies any of the claims and deciding what to do when petitioners request a dismissal when the petition alleges very serious abuse. This highlights the importance of asking the petitioner if their dismissal request is voluntary and following up with a referral to the local DV center.
- The credibility of the litigants is crucial. It can be very difficult to make a sound ruling when there is no evidence of violence or threats of violence other than the

parties' statements.

Due process rights versus protecting the safety of petitioners and their children

- Judges are required to take and evaluate evidence and testimony, make a ruling regarding the injunction, and resolve related issues (custody, support, etc.), all the while protecting the due process rights of the litigants. There are many cases to handle but little time to handle them in the courtroom.
- It is a difficult balance between moving the calendar along and balancing the due process rights of the respondents.
- Enforcement of injunctions and handling violations effectively.

Family dynamics issues

- Cases involving children, particularly when there is child abuse, or when the parents don't want to see their children. Having sufficient support/treatment services available in the community to help these families is very important, particularly regarding substance abuse services.
- Some judges express concern that petitioners sometimes use the domestic violence injunction process to gain an advantage in a domestic relations dispute. (ie divorce, child custody, child support, possession of home.)

- Handling the range and intensity of emotions attached to each case. These cases have the highest volatility and a high danger of violence.

Other comments: The appropriate role of judges handling DV cases

- Some judges stated a desire to correct the perception that judges should be activists or advocates in this area of law. However, judges are required to be neutral finders of fact. There should be advocates and other community resources available to assist petitioners.
- Judicial training should include education on understanding and evaluating evidence in DV cases, the importance of providing appropriate provisions/assistance to litigants when there is sufficient reason to issue an injunction, the need for judicial follow-up regarding respondent compliance with the injunction provisions, and a firm understanding of the DV syndrome.
- Judges should develop a practice of questioning the petitioner when he/she requests a dismissal to find out all the facts of a case that petitioners may not voluntarily offer in the presence of the respondent.
- Even when litigants minimize violence or threats of violence against them, judges should

maintain a perspective in accordance with prevailing academic teaching.

Other comments - general

- Domestic violence is a serious problem. We should look at prevention issues, as the court system cannot solve the problem. Ingrained attitudes and morés will not be changed by an injunction. Resources should go into front-end prevention and education. Use of general masters, mediation, and parenting coordinators is helpful to the extent that appropriate screening occurs to identify DV issues in family cases. DV involves basic issues of family, gender roles, power, and coercion. The women’s movement has produced some change in the mind set regarding domestic violence, as more women are in the courts as judges and lawyers.

LOCAL PRACTICES

The “local practices” noted here are those practices identified by key participants as being effective in managing injunction cases. These views were expressed to members of the assessment team when conducting on-site data collection in each county. While this report does not endorse any of the comments as sound practice, the on-site interviews allowed an opportunity for judges and DV professionals to reflect on current practices and identify their view on

practices that work well.

ALACHUA COUNTY

- Advocates in the courtroom provide needed help to petitioners at a very difficult time; the court has been encouraging the use of advocates in the courtroom.

CITRUS COUNTY

- Having the DV Coordinator in the courtroom during the hearing gives the judge the opportunity to arrange for additional, immediate help to petitioners, particularly those who have requested dismissal.
- Scheduling cases at a time certain not only prevents chaos in the hallways and courtrooms, it prevents litigants from hearing testimony in previous cases and promotes “uncontaminated” testimony in the courtroom.

LEE COUNTY

- The Domestic Violence Division of Court Administration provides comprehensive intake, case management, and compliance follow-up services. Staff members are appointed as deputy clerks, so petitions can be processed completely within that unit, and all staff have been trained in the dynamics of abuse, victim sensitivity, and the role of community agencies. Continuing education is provided on appropriate laws, procedures, and services.

- The “facilitation” process used as an alternative to an evidentiary hearing to resolve issues and identify areas of agreement between the parties.

LEON COUNTY

- DV advocates at the courthouse perform intake for all injunction cases, i.e., provide forms, assistance, information, referrals, and counseling to petitioners, and the judge carefully questions petitioners when they request dismissal and offers DV center services to those petitioners requesting dismissal.

MANATEE COUNTY

- The Violence Protection Advocate Division of the Clerk’s office provides intake and case management services to petitioners; this division also conducts pro-active monitoring of compliance with the provisions of injunctions.
- DV advocates have an office across the street from the courthouse; the Clerk’s staff refers petitioners to the advocate’s office when additional assistance or Spanish-English translation is needed.
- Routinely delaying respondents from leaving at the conclusion of the hearing provides a head start to petitioners; because this procedure is routine, neither the judge nor the bailiffs have to

evaluate the need for delay in each case.

MIAMI-DADE COUNTY

- There is an excellent working relationship among the Clerk’s Office, the Domestic Violence Division, the State Attorney’s Office, shelters, and other parts of the system serving victims of domestic violence. A Standing Committee on Domestic Violence, chaired by current and former Administrative Judges of the DV Division, has a membership comprising various governmental and community agencies and organizations to provide a forum for effective communication and coordination among all court and community organizations.

NASSAU COUNTY

- Law enforcement does an excellent job of serving orders on respondents and filing notices of service in a timely manner.
- The Clerk’s office does a very effective job with court orders, i.e., preparation, service, and tracking.

OKEECHOBEE COUNTY

- The judge takes the time necessary to allow parties to have their say in court and to ensure the safety of victims.

PALM BEACH COUNTY

- Court Administration operates a

DV Intake Unit (DVIU), which provides additional assistance to petitioners, as well as support and information/referrals to a variety of community service providers. The DVIU office uses the petitioner’s information to complete the petition on-line; the petition is electronically relayed to the DV/RV unit in the Clerk’s office.

- There are good working relationships among the Clerk’s office, Court Administration, and law enforcement agencies; these relationships contribute to the effectiveness of the court processes regarding injunctions.
- Legal assistance is readily available to litigants through the Legal Aid Society office in the courthouse.

PINELLAS COUNTY

- The DV Room in the Clerk’s Office provides privacy, security, and ready access to help from a deputy clerk as well as a DV advocate. The children’s play area provides entertainment and diversion for the children of petitioners, while the petitioners themselves are completing their paperwork and interacting with the Deputy Clerk and/or the DV Advocate.
- Litigants leave the courthouse with their court orders in hand, which serves to reinforce the immediacy and importance of the court’s order.

SANTA ROSA COUNTY

- The community response team meets regularly to ensure an effective, coordinated response to domestic violence cases. Members attribute the success of their group to training to ensure basic levels of knowledge about DV and agency procedures, regular meetings to reinforce the trusted working relationships developed among members, and resources dedicated to DV.
- Judicial leadership in establishing mechanisms and procedures designed to ensure victim safety and offender accountability.
- A Domestic Violence Coordinator dedicated exclusively for Santa Rosa County enables that professional to provide comprehensive case management services benefiting both litigants and the court.

SEMINOLE COUNTY

- All intakes are handled through the Safehouse advocate's office located one block from the courthouse. This enables the petitioner to receive additional assistance with completing forms; the advocate also takes photographs to document injuries, conducts safety assessments and develops safety plans, and makes appropriate referrals for services as needed.

VOLUSIA COUNTY

- Judges who take the time necessary to thoroughly conduct the proceedings for each case.

SECTION FOUR: CASE FILE DATA ANALYSIS

DOMESTIC VIOLENCE INJUNCTION CASES

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.

This section reports and discusses the aggregate data compiled from all cases reviewed in the 14 counties. Individual county data are noted as appropriate to illuminate or further explain the aggregate data

The data contained in this report have limitations that should be noted. The data were obtained from paper documentation contained in the case files, including petitions, pleadings, motions, affidavits, notices of service, court orders, and other documents. Therefore, actions taken by the court and others but not documented in the case files

were not captured. Examples of actions or processes that did not appear to be consistently documented in case files include State Attorneys' criminal prosecutions of injunction violations, judges' abuse/neglect reports to DCF, and referrals for community services provided to litigants by case managers, though those actions may well have been documented elsewhere. Further, the possibility exists that some documentation of actions or events in the domestic violence injunction cases may have been misfiled and thereby inadvertently omitted from this analysis.

LITIGANT INFORMATION

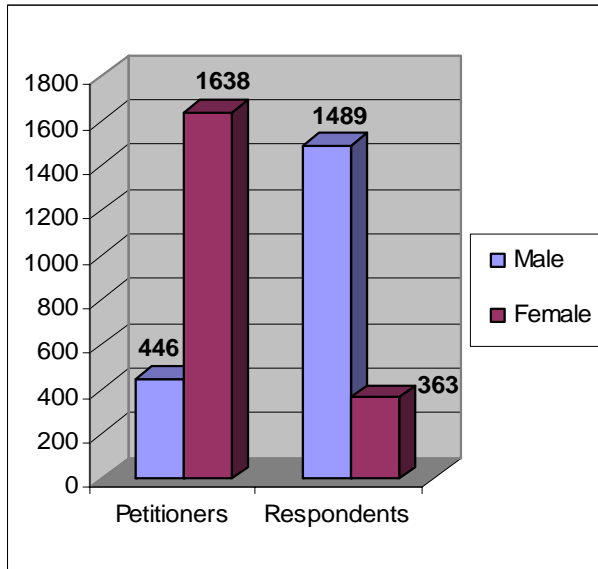
Florida's statutory definition of domestic violence allows spouses, former spouses, persons related by blood or marriage, persons who are or have resided together as if a family, and persons who have a child together to file a petition requesting an injunction for protection from domestic violence. (§ 741.28, Fla. Stat.) The following data display the demographic characteristics of petitioners and respondents in the cases examined.

Litigant gender

As shown below, the majority of petitioners were female, while the majority of respondents were male. This finding is consistent with numerous research studies indicating that females constitute

the majority of domestic violence victims, and that most acts of domestic violence are committed by males. However, as the data indicate, there were significant percentages of male petitioners and female respondents.

LITIGANT GENDER



Family relationships

By definition, domestic violence involves some type of past or present familial or intimate relationship between the parties. Such relationships illustrate the complexity of domestic violence cases which frequently involve family law, property, and financial issues as well as the most compelling issue of safety for victims and their children.

- 1,643 cases involved intimate partners (89.8% of all cases); this includes cases where the petitioner identified the relationship as spouse, former spouse, living in one home and intimate partners, co-parents, or

other dating / romantic relationship.

- 187 cases involved other family relationships such as adult siblings and adult children of elderly parents (10.2% of all cases).
- 904 cases involved parties with children in common (49.3% of all cases); these cases represent a total of 1,470 children.
- Of the 904 cases involving children, 133 cases (14.7%) were filed on behalf of a total of 191 children.
- Of the 904 cases involving children, 889 were filed by intimate partners (54% of cases filed by intimate partners).

Litigants’ legal representation

Section 741.30(f), Florida Statutes, states that “this cause of action for an injunction shall not require that either party be represented by an attorney.” Like any civil proceeding, the ability to file a petition for protection from domestic violence without legal representation affords access to the courts for those who cannot afford to hire a lawyer. The data below illustrate findings regarding the legal representation status of litigants at the return hearing, based upon court records documenting the presence of the parties and their attorneys at these particular proceedings. These findings should be interpreted with

caution as there may be cases where litigants were legally represented but the case file did not contain accurate documentation of representation. For example, it is not uncommon for a party to obtain counsel within a couple of days of a return hearing and notices of appearance may not be filed by the lawyer.

- The total number of cases in which return hearings were held was 1,565.
- Both parties not represented, or *pro se*: 956 cases (61.1% of cases in which hearings were held).
- Representation was unknown in 270 cases (17.3% of cases in which hearings were held).
- Only the petitioner represented: 116 cases (7.4% of cases in which hearings were held).
- Only the respondent represented: 88 cases (5.6% of cases in which hearings were held).
- Both parties represented: 135 cases (8.6% of cases in which hearings were held).

As shown above, both parties were *pro se* in more than half of all cases; both parties were represented in only a small percentage of cases. This finding should be interpreted with some caution, as there may have been cases where litigants were legally represented but the case file did not contain documentation of representation.

Payment of fees

The Florida Statutes in effect during this study's two-year timeframe limited the total charge for any court to issue an injunction to \$50.00*. (§ 741.30(2)(a), Fla. Stat.) The statute further provided that such charges "shall be waived" upon filing an affidavit of insolvency, subject to a subsequent order of the court. This provision enabled individuals to petition the court for protection from domestic violence whether or not they could afford to pay fees and charges at the time the petition was filed. The data below indicate filing fee payments versus waiver requests.

- Petitioners paid fees at time of filing – 491 cases (27.2% of cases with valid data).
- Petitioners requested fee waiver – 1,310 cases (72.7% of cases with valid data).
- Of the 1,310 cases in which waivers were requested, 1,287 (98.3%) of the waiver requests were granted.

** (The 2002 Florida Legislature eliminated all fees and charges for filing petitions/ service of injunctions for protection against domestic violence.)*

Confidential filing of address

Because respondents are served with a copy of the petition along with a copy of the court's order when a return hearing has been ordered, Florida law provides for petitioners to request a confidential

filing of address. This allows the petitioner to furnish a home address to the court in a separate, confidential filing if, for safety reasons, the petitioner requires the location of the current residence not to be revealed. (§ 741.30(3)(a), Fla. Stat.)

- Petitioners requested confidential filing of address in 166 cases, or 9.1% of all cases.

History of violence

As part of the case history information requested in the petition form (Ch. 12.610, F.R.C.), petitioners are asked to identify any past domestic violence injunctions the parties in the current case had obtained or attempted to obtain against each other.

- In 408 cases (22.3% of all cases), the petitioner reported having obtained or attempted to obtain a previous DV injunction against the respondent.
- In 157 cases (8.6% of all cases), the petitioner reported that the respondent had obtained or attempted to obtain a previous DV injunction against the petitioner.

In order to provide judges with additional information regarding any violent history on the part of the litigants, cross checks performed by the Clerk of the Court or by Court Administration staff documented prior criminal history records for the litigants. It is impossible to

determine whether cross checks for criminal histories were consistently conducted in all cases. When criminal histories were located, the case file documentation varied. In some cases, copies of the actual criminal history records were placed into the injunction case files. In most cases where criminal histories were documented, the files indicated the existence of criminal history records through a listing of the criminal case numbers, types of cases, dates, and dispositions.

- Case files contained documentation of criminal history records for petitioners in 59 cases (3.2% of all cases).
- Case files contained documentation of criminal history records for respondents in 180 cases (9.9% of all cases).

Petitions requesting injunctions for protection from domestic violence include questions regarding whether children in the home have witnessed or been present when the domestic violence incidents occurred. Additionally, the petitioners' narrative descriptions of the domestic violence incidents may refer to involvement of or risk to children. According to Section 39.201(1)(g), Florida Statutes, judges are required to report suspicions of child abuse or neglect to the Florida Department of Children and Families (DCF). DCF has established a procedure for judges to file reports via fax rather than by phone.

Several methods were used to document such reports. In some cases, a photocopy of the faxed report was placed in the file. In other cases, the Clerk or other court staff made a notation in the file that a Judge had filed a report of suspected child abuse/neglect with DCF. It should be noted that because there is no statutory requirement to file proof of referral to the DCF, the data may be underreported.

- Reports to DCF regarding child abuse/neglect were made in 68 cases – 7.6% of the 904 cases involving children.
- In cases filed on behalf of children, reports to DCF regarding child abuse/neglect were made in 27 cases, or 20.3% of the 133 cases filed on behalf of children.

On the petition form (Ch. 12.610, F.R.C., 1999), petitioners are asked whether the respondent owns, has, or is known to have guns or other weapons. This information may be considered as an additional risk factor by the court in determining whether to issue an *ex parte* injunction. Also, Clerks of the Court frequently include this information on the cover sheets provided to law enforcement officers so that when they attempt to accomplish service on the respondents, they are alerted

as to whether the respondents will be armed.

- Petitioners indicated respondents owned/had/were known to have guns or other weapons in 648 cases, or 35.4% of all cases.

Other past and pending cases

One question of interest in this assessment is the extent to which litigants in domestic violence injunction cases were involved in other past or pending cases, particularly dissolution of marriage, child support, paternity, and dependency cases. However, the types of crossover cases also include domestic violence civil cases, criminal cases, and other unspecified civil cases. Data on these “crossover” cases were obtained from two sources: petitioners’ statements in the original petitions identifying other cases in which they and the respondents are involved; and, cross checks of court records performed by Clerks of the Court or Court Administration staff.

- Petitioners identified crossover cases in 645 DV injunction cases, or 35.2% of all cases filed; a number of petitioners reported multiple crossover cases, as shown below.

PETITIONERS' SELF REPORTS

CROSSOVER CASE TYPE	NUMBER OF CROSSOVER CASES REPORTED BY PETITIONERS	% OF ALL CASES FILED (n=1,830)
Dissolution of marriage	245	13.3%
Criminal	202	11%
Domestic violence (civil)	171	9.8%
Child support enforcement	70	3.8%
Paternity	29	1.6%
Dependency	15	0.8%
Civil/family-unspecified	18	1%
Unknown	16	0.9%
TOTAL CROSSOVER CASES REPORTED	766	NA*

**Because a number of petitioners reported multiple crossover cases in DV injunction cases, the total number of crossover cases cannot be calculated as a percent of all cases filed.*

- Cross checks performed by Clerk of the Court staff or Court Administration staff identified crossover cases in 707 DV injunction cases, or 38.6% of all

cases filed; multiple crossover cases were identified in a number of DV injunction cases, as shown below.

STAFF CROSS-REFERENCE REPORTS

CROSSOVER CASE TYPE	NUMBER OF CROSSOVER CASES	% OF ALL CASES (n=1,830 CASES)
Dissolution of marriage	164	8.4%
Criminal	230	12.4%
Domestic violence (civil)	251	13.7%
Child support enforcement	28	1.5%
Paternity	22	1.1%
Dependency	30	1.5%
Other/could not determine case type	119	
TOTAL CROSSOVER CASES	844	NA*

**Because multiple crossover cases were identified in a number of DV injunction cases, the total number of crossover cases cannot be calculated as a percent of all cases filed*

As shown above, a substantial percentage of litigants in domestic violence injunction cases were or had been involved in other family law and criminal cases. Although the actual numbers diverge somewhat between petitioners' self reports and the staff cross-reference reports, both data

sources show that the most frequent types of crossover cases were dissolution of marriage, criminal cases, and previous domestic violence injunction cases. The above data indicate that most of the domestic violence injunction cases reviewed were "stand-alone"

cases, i.e., they did not have past or current companion or crossover cases.

RELIEF REQUESTED

Florida Statutes outline the various types of relief petitioners may request in their petitions for injunctions for protection from domestic violence. The types of relief available include: restraining the respondent from committing domestic violence; temporary, exclusive use and possession of the shared dwelling; temporary child custody and temporary visitation rights (and limits on visitation); temporary child support; and, respondent participation in a batterers' intervention program or other treatment. (§ 741.30(3)(b), Fla. Stat.) The petition form approved by the Florida Supreme Court also allows petitioners to request no contact and that the respondents be prohibited from coming within 500 feet of the petitioners' residence,

place of employment or school, and other specified places the petitioners or their children must go often (Ch. 12.610, F.R.C., 1999).

The table below shows the provisions requested by petitioners in all cases, as well as the provisions granted in the temporary injunctions. The provisions requesting prohibition of violence and contact with the petitioner are part of the standard petition form, so petitioners do not need to specifically request those protections. In terms of provisions specifically requested by petitioners, the most frequently requested relief was evaluation/treatment for the respondent, followed by exclusive use or possession of the home. Of the 889 cases involving children (filed by intimate partners), 85% of the cases included requests for child custody, 87% requested visitation, and 59% requested child support.

Provisions Requested and Granted in Temporary Injunctions

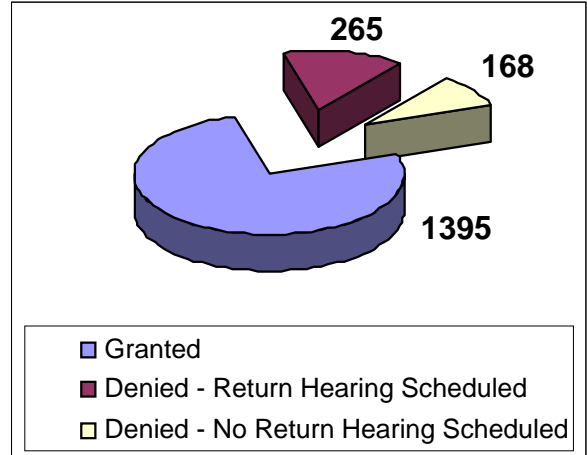
Provision	Requested by Petitioner		Frequency	Granted	
	Frequency	Percent of all cases *		Frequency	Percent of temporary injunctions issued **
No contact	1825	99.7%	1367	98.0%	
No violence	1828	99.9%	1389	99.6%	
Possession of home	861	47.1%	803	57.6%	
Possession of personal property	19	1.0%	524	37.6%	
Temporary alimony	241	13.2%	****	****	
Respondent treatment/assessment	1018	55.6%	****	****	
Refer petitioner to DV center	374	20.4%	****	****	
No possession/ownership of firearms, ammunition	99	5.4%	967	69.3%	
Respondent to pay court costs, fees	64	3.5%	****	****	
Other	49	2.7%	652	46.7%	
<u>Cases with Children - n=904</u>					
Temporary child custody	756	83.6%	574 ***	83.9%	
Child visitation	774	85.6%	****	****	
Temporary child support	527	58.3%	****	****	

* n=1830 ** n=1395 *** n=684 temporary injunctions issued in cases with children **** data for these provisions are unavailable

CASE PROCESSING AND OUTCOMES

Initial orders in response to the petitions

Upon filing of the petition and any other required paperwork, a judge reviews the information and issues an order in response to the petition. The judge may issue an *ex parte* injunction, effective immediately, and set a hearing within 15 days to determine whether a permanent injunction should be issued. Another judicial option is to schedule a return hearing as soon as possible to determine whether a permanent injunction should be issued without issuing an *ex parte*, or temporary, injunction. Finally, the judge may deny the petition and dismiss the case without scheduling a return hearing.



The findings above show that a total of 1,660 cases (90.7% of all cases filed) were scheduled to go to hearing, either with or without a temporary injunction. Of those cases denied without a return hearing, the following reasons were given for the denials.

REASONS PROVIDED FOR CASES DENIED WITHOUT A RETURN HEARING

REASON GIVEN	FREQUENCY	PERCENT
Petitioner failed to allege sufficient facts	134	62.3%
No immediate danger of violence	40	18.6%
Incorrect jurisdiction (geographic/substantive)	14	6.5%
Other	13	6.0%
Petitioner failed to allege DV relationship	8	3.7%
Petitioner didn't complete petition	4	1.9%
Petitioner didn't sign petition	2	1.0%
TOTAL	215	100%

**These data were derived from the 168 cases denied without a return hearing; a number of orders cited multiple reasons for denial.*

Service on respondents

When the courts’ initial orders set return hearings, with or without the issuance of temporary injunctions, the respondents are to be personally served with a copy of the petition, financial and other affidavits, the notice of hearing, and the temporary injunction, if any (Section 741.30(4), Florida Statutes). Service on the respondent must be accomplished before the temporary injunction can be enforced.

- Service on the respondents was accomplished in 1,187 cases where temporary injunctions were issued – 85.1% of the 1,395 cases with temporary injunctions.

- Service on the respondents was accomplished in 201 cases where the temporary injunction was denied but a return hearing was set—75.8% of the 265 cases where a return hearing was set without a temporary injunction.

Extensions of temporary injunctions

Section 741.30(5)(c), Florida Statutes, specifies that the initial *ex parte* temporary injunctions shall be effective for a period not to exceed 15 days. They also state that the court may grant a continuance of the hearing for good cause shown by any party, including a continuance to obtain service of process. The reasons given for continuing or extending temporary injunctions are shown as follows.

REASONS FOR EXTENDING TEMPORARY INJUNCTIONS

	<u>FIRST EXTENSION</u>		<u>SECOND EXTENSION</u>	
	n	% of cases- temporary injunction issued *	n	% of cases – temporary injunction issued*
Lack of service	124	8.9%	33	2.4%
No reason given**	86	6.2%	24	1.7%
Petitioner request	41	2.9%	16	1.1%
Respondent request	29	2.1%	15	1.1%
Court schedule	17	1.2%	3	0.2%
Respondent Failed To Appear	4	0.3%	2	0.1%
Litigant schedule	4	0.3%	0	0
Other	16	1.1%	3	0.2%
TOTAL	321	23%	96	6.8%

*n=1,395

**These orders did not specify why the injunction was extended/the hearing was re-scheduled; however, in many cases service on the respondent had not been accomplished.

- As shown above, lack of service on the respondent was the most frequently documented reason for extending temporary injunctions (38.6% of the 321 cases with one extension and 34.3% of the 96 cases with two extensions).
- Extensions were granted at the request of the petitioner or respondent in 21.7% of cases with one extension and 32.2% of the cases with two extensions.

Violations of temporary injunctions

Once a temporary injunction has been granted and the respondent has been served, the respondents are bound by the terms of that injunction order. If respondents violate the terms of the temporary injunctions, petitioners are instructed in their paperwork to complete an affidavit of violation at the Clerks’ office so that the court may take appropriate enforcement actions.

Violations of the temporary injunctions are documented as follows. It is noted that these findings should be interpreted with some caution, as there may have

been cases where arrests were made and charges never filed.

- Violations of the temporary injunctions were alleged to have occurred in 45 cases, or 3.2% of all cases with temporary injunctions; 51 separate violations were alleged in those cases.
- Contact with the petitioner was the most frequently alleged violation of temporary injunctions - 44 cases indicated alleged contact violations (97.8% of cases with alleged violations of temporary injunctions).
- Property destruction violations were alleged in three (3) cases – 6.7% of cases with alleged violations of temporary injunctions.
- Other violations were alleged in four (4) cases – 8.9% of cases with alleged violations of temporary injunctions.

The courts may take a number of actions in response to allegations of violation; the following actions in response to affidavits of violation were documented.

ACTIONS TAKEN IN RESPONSE TO ALLEGATIONS OF VIOLATION

ACTIONS TAKEN	n	%
None documented	16	35.6%
Dismissed	13	28.9%
Other	4	8.9%
Criminal charge	3	6.7%
Criminal contempt	3	6.7%
Civil contempt	2	4.4%
Arrest warrant	2	4.4%
Referral to SAO	2	4.4%
TOTAL	45	100%

- In 16 cases (35.6% of 45 cases), the case files contained affidavits of violation but there was no documentation of any action taken in response to the alleged violations of temporary injunctions.

Hearings for issuance of final injunctions

Upon notice, a return hearing is held with the parties in court to determine whether a final domestic violence injunction should be granted. After hearing and evaluating the evidence, the judge may grant a final injunction or deny the final injunction and dismiss the case. The outcomes of those cases where hearings were held are shown as follows:

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:	<u>(8)</u>	<u>(0.4%)</u>
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%

- Of the 87 cases dismissed prior to the hearing, petitioners requested dismissal in 83 (95.4%) of those cases.
- 55.8% of final injunctions were effective until further order of the court (416 cases).
- 44.3% of final injunctions were effective for a definite time period (329 cases).
- The average duration for injunctions with a defined duration was 321 days; the minimum duration was 180 days and the maximum duration was 1465 days.
- At the hearings, final injunctions were denied in 820 cases, or 52.3% of the 1,565 cases where hearings were held.

Final injunctions were denied and the cases thereby dismissed for the following reasons:

REASONS CASES WERE DISMISSED

REASONS	# OF CASES	% OF CASES DISMISSED AT HEARING
Petitioner Failed To Appear	282	34.4%
Petitioner appeared-requested dismissal	265	32.3%
Insufficient evidence-failed to prove facts	166	20.2%
Failed to allege facts establishing DV	24	2.9%
Respondent requested dismissal	4	0.5%
Other/unknown	79	9.6%
TOTAL	820	100%

As shown above, 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.

FINAL INJUNCTIONS – PROVISIONS GRANTED

There are a number of relief provisions available through a final injunction order; some provisions are required by state statute or rule while others are optional and are included in injunction orders at the court’s discretion.

Required relief provisions

- The respondent shall not commit domestic violence against the petitioner (Ch. 12.610, Florida Rules of Court, 1999).
- The respondent shall have no contact with the petitioner, unless otherwise provided in the injunction order (Ch. 12.610, Florida Rules of Court., 1999).

- The respondent shall not have “care, custody, possession or control of any firearm or ammunition” (Ch. 12.610, FRC, 1999 and § 790.233, Fla. Stat., 1999). This provision does not prohibit active, certified law enforcement officers who receive or possess firearms or ammunition for use in performing official duties for their employing agency from having care, custody, possession or control of a firearm or ammunition.
- The court shall order the respondent to attend a batterers’ intervention program if it finds that the respondent: willfully violated the *ex parte* injunction; has been convicted of, had adjudication withheld, or pled *nolo contendere* to a crime involving violence or a threat of violence in Florida or in any other state; or, has at any time had a prior injunction for protection entered against them after a hearing with notice in Florida or in any other state (Ch. 12.610, F.R.C., 1999;

741.30(6)(d), Fla. Stat.,1999). If the respondent meets any of the above enumerated criteria, the court must order such treatment unless it makes written factual findings stating why such a program would not be appropriate.

Optional relief provisions

The following relief provisions may be included in final injunction orders if they apply to the instant case and the court chooses to incorporate them into the orders (12.610, F.R.C., 1999; § 741.30(6)(a), Fla. Stat., 1999).

- Respondent shall surrender any firearms and ammunition in the respondent’s possession.
- Temporary, exclusive use and possession of the shared dwelling.
- Temporary custody of and visitation with minor child(ren).

- Temporary child support.
- Temporary alimony.
- Respondent participation in a Batterers’ Intervention Program (BIP) – see note above.
- Respondent enrollment and/or participation in substance abuse evaluation or treatment.
- Respondent enrollment and/or participation in mental health evaluation or treatment.
- Referral of petitioner to a certified domestic violence center.
- Other provisions the court deems necessary to protect the petitioner from domestic violence.

The table below shows the provisions included in all final injunctions issued.

FINAL INJUNCTIONS – PROVISIONS GRANTED

Final Injunctions – Provisions Granted	Cases with Provisions	
	<u>n</u>	<u>% of total</u>
Safety provisions:		
No Domestic Violence against petitioner	745	100%
Contact provisions:		
No Contact	663	89%
No violent contact	33	4.4%
Contact only re: child	44	5.9%
Media contact only	17	2.3%
Minimum distance	10	1.3%
Other modified contact	15	2.0%
Firearms provisions:		
No Possession-Firearms/ammunition	704	94.5%
Surrender order of firearms	285	38.2%
Firearms prohibition NA – Law enforcement officer	17	2.3%

Final Injunctions – Provisions Granted	Cases with Provisions	
	<u>n</u>	<u>% of total</u>
Home/property provisions:		
Possession of home	430	57.8%
Transfer of possession home	77	10.3%
Possession of personal property	180	24.2%
Provisions re: children:		
Child Custody	273	36.6%
Child Visitation	256	34.9%
Reasonable visitation	45	6.0%
Supervised visitation	48	6.4%
Limited visitation	140	18.8%
Prohibited visitation	19	2.6%
Financial provisions:		
Child Support	103	13.8%
Alimony	5	0.7%
Treatment provisions-respondents:		
No treatment / intervention	558	74.8%
Substance abuse treatment/evaluation	46	6.2%
Batterers' Intervention Program(BIP)	151	20%
MH evaluation / counseling	26	3.5%
Parenting classes	15	2%
Anger management	8	1.1%
Other treatment	7	0.9%
Treatment provisions-petitioners:		
No conditions for petitioner	690	92.6%
Petitioner referred to DV center	39	5.2%
No consumption of alcohol-petitioner	11	1.5%
Parenting classes-petitioner	5	0.7%
Other provisions for petitioners	8	1.0%
Miscellaneous provisions:		
Respondent may sell firearm	30	4.0%
Respondent may possess firearm for recreation	15	2.0%
Return firearm to respondent	5	0.6%
Proof of surrender of firearm	17	2.2%
No alcohol / drug use around children	10	1.3%
Resolution re: child visitation / support	40	5.4%
3rd party / media contact only	7	0.9%
Neither party may remove child from Florida	9	1.2%
Stipulated agreement- no findings of DV*	45	6.0%
Neither party may portray other in negative way	5	0.6%
No consumption of alcohol / drugs	4	0.5%
Other	73	9.8%

**This category includes cases where the injunction contained a provision stating that the injunction order contained no findings of domestic violence; it does not include cases where the findings of domestic violence section of the final order was crossed out.*

In terms of final injunctions and the provisions they contain, a number of points emerge as especially pertinent to this assessment.

Safety

Required provisions:

- All final injunctions issued (100%) prohibited domestic violence against the petitioner.
- Eighty-nine percent of final injunctions included “no contact” provisions; 11% of final injunctions included one or more “modified contact” provisions.
- Ninety-four percent of final injunction orders prohibited ownership/possession of firearms and ammunition (704 cases); 5% of final injunctions eliminated the mandatory provision prohibiting ownership/possession of firearms and ammunition (37 cases).

Optional provision:

- Thirty-eight % of final injunctions ordered the surrender of firearms believed to be in the possession of respondents (285 cases).

Respondent treatment

Required provision:

- In 42 cases, respondents were found by the court to meet the

criteria for mandatory BIP participation; BIP was ordered in 34 of those cases, or 80.9%. In the eight cases where BIP was not ordered, seven of the cases included written findings as to why BIP was not ordered. This finding may under-report the number of cases in which the criteria for mandatory BIP participation were met, as this section of the final injunction orders was not always completed.

Optional provisions:

- 25.2% of final injunction orders contained some type of treatment provision for respondents (187 cases).
- The various combinations of treatment ordered are shown below, in decreasing order of frequency:
 - ♦ BIP only – 117 cases, 15.7% of cases with final injunctions
 - ♦ Mental health, substance abuse, and BIP – 16 cases, 2% of cases with final Injunctions
 - ♦ Substance abuse treatment/evaluation only – 16 cases, 2% of cases with final injunctions
 - ♦ Substance abuse and BIP – 12 cases, 1.6% of cases with final injunctions

- ♦ Mental health treatment/evaluation only – 5 cases, 0.7% of cases with final injunctions
- ♦ Mental health and BIP – 3 cases, 0.4% of cases with final injunctions
- ♦ Mental health and substance abuse treatment/evaluation – 2 cases, 0.3% of cases with final injunctions

Legal representation

Although legal representation is not required for any civil proceeding, a number of litigants do obtain legal representation. The most reliable method of tracking legal representation is the representation status of the litigants at the final hearing. As stated earlier these findings should be interpreted with caution as there

may have been cases where litigants were legally represented but the case file did not contain notice of appearance or other documentation of representation.

In order to determine whether the provisions included in the final injunctions varied according to legal representation, the following table shows the provisions granted in the final injunctions based upon legal representation status. The percentages indicate what percent of cases within each representation category contain the provision in question, thus facilitating comparison of provisions across representation categories. This table does not include the 32 cases where final injunctions were issued but representation was unknown.

LEGAL REPRESENTATION CATEGORIES

FINAL INJUNCTIONS - PROVISIONS GRANTED	ONLY PETITIONER REPRESENTED		ONLY RESPONDENT REPRESENTED		BOTH PARTIES REPRESENTED		NEITHER PARTY REPRESENTED	
	<u>n</u>	<u>%</u>	<u>n</u>	<u>%</u>	<u>n</u>	<u>%</u>	<u>n</u>	<u>%</u>
Total # of Final Injunctions Granted	96	100%	47	100%	78	100%	492	100%
No Violence	96	100%	47	100%	78	100%	492	100%
Contact Provisions:								
No Contact	85	88.5%	40	85.1%	67	85.9%	444	90.2%
No violent contact	5	5.2%	3	6.4%	5	6.4%	17	3.5%
Cont. only re: child	6	6.3%	4	8.5%	10	12.8%	22	4.5%
Media cont. only	3	3.1%	3	6.4%	1	1.3%	9	1.8%
Minimum distance	0	0.0	1	2.1%	2	2.6%	6	1.2%
Other modified contact	6	6.3%	3	6.4%	0	0.0	6	1.2%
Firearms provisions:								
No use / poss. Of firearms	92	95.8%	42	89.4%	74	94.9%	471	95.7%
Surrender order of firearms	34	35.4%	13	27.7%	35	44.9%	199	40.4%

Firearms prohibition NA – Law enforcement Officer	3	3.1%	3	6.4%	3	3.8%	8	1.6%
Home/Property provisions:								
Possession of home	61	63.5%	24	51.1%	55	70.5%	274	55.7%
Transfer of possession home	7	7.3%	2	4.3%	11	14.1%	54	11.0%
Possession - personal property	26	27.1%	14	29.8%	22	28.2%	110	22.4%
Provisions regarding children:								
Child Custody	38	39.6%	21	44.7%	53	67.9%	166	33.7%
Reasonable visitation	10	10.4%	2	4.3%	4	5.1%	27	5.5%
Supervised visitation	6	6.3%	2	4.3%	11	14.1%	26	5.3%
Limited visitation	16	16.7%	13	27.7%	28	35.9%	78	15.9%
Prohibited visitation	3	3.1%	0	0.0	7	9.0%	8	1.6%
Financial provisions:								
Child Support	13	13.5%	8	17.0%	23	29.5%	56	11.4%
Alimony	3	3.1%	0	0.0	0	0.0	1	0.2%
Treatment provisions for respondents:								
No treatment / intervention	63	65.6%	41	87.2%	58	74.4%	375	76.2%
Substance Abuse evaluation / counseling	10	10.4%	2	4.3%	6	7.7%	27	5.5%
BIP	24	25.0%	5	10.6%	13	16.7%	97	19.7%
Mental Health evaluation / counseling	6	6.3%	1	2.1%	3	3.8%	15	3.0%
Other treatment	6	6.3%	1	2.1%	5	6.4%	18	3.7%
Conditions/provisions for petitioners:								
No conditions for petitioner	89	92.7%	45	95.7%	70	89.7%	455	92.5%
Petitioner ordered referral to DV center	6	6.3%	2	4.3%	5	6.4%	25	5.1%
No consumption of alcohol for petitioner	2	2.1%	1	2.1%	2	2.6%	6	1.2%
Parenting classes for petitioner	0	0.0	0	0.0	2	2.6%	3	0.6%
Other provisions for petitioners	1	1.0%	0	0.0	1	1.3%	6	1.2%
Miscellaneous provisions:								
Respondent may sell firearm	4	4.2%	2	4.3%	5	6.4%	19	3.9%
Respondent may possess firearm for recreation	1	1.0%	1	2.1%	4	5.1%	7	1.4%
Return firearm to respondent	0	0.0	0	0.0	3	3.8%	2	0.4%
Respondent Prove surrender of firearm	5	5.2%		0.0	3	3.8%	9	1.8%
No alcohol / drug use around children	0	0.0	1	2.1%	5	6.4%	4	0.8%
Resolution re: child visitation / support	7	7.3%	3	6.4%	5	6.4%	24	4.9%
3rd party / media contact only	3	3.1%	0	0.0	0	0.0	4	0.8%
Neither party may remove child from Florida	2	2.1%	4	8.5%	0	0.0	3	0.6%

Stipulated agreement with no findings of fact / DV	4	4.2%	6	12.8%	5	6.4%	29	5.9%
Neither party may portray other in negative way	0	0.0	1	2.1%	1	1.3%	3	0.6%
No consumption of alcohol or drugs	0	0.0	0	0.0	1	1.3%	3	0.6%
Other	15	15.6%	8	17.0%	15	19.2%	33	6.7%
Total # of cases with hearings	116	-	88	-	135	-	956	-
Final Injunctions Granted as % of cases with hearings	82.8%		53.4%		57.8%		-	51.5%

For the cases reviewed in this assessment, there were a number of differences in the final injunctions granted based upon the available documentation of legal representation. However, these findings should be interpreted with some caution, as there may have been cases where litigants were represented by attorneys but the case file did not contain documentation of representation.

- Injunctions were issued most frequently in those cases where only the petitioner was represented – 82.8% of cases with hearings – versus injunctions issued in slightly over half the cases where only the respondent was represented, both parties were represented, or both parties were *pro se*.
- The mandatory prohibition on firearms/ammunition use or possession was included in final injunctions slightly less frequently when only the respondents were represented, as opposed to injunctions issued

with litigants in the other representation categories.

- Provisions regarding possession of the home and personal property as well as provisions addressing child custody and child support were included in final injunctions most frequently in cases where both parties had legal representation and least frequently in cases where both parties were *pro se*.
- Respondents were ordered to participate in BIP most frequently in cases where only the petitioners were represented (25%, n=96) and least frequently in cases where only the respondents were represented (10.6%, n=47).
- Final injunctions containing no treatment of any kind for respondents were issued most frequently when only the respondents were represented and least frequently in cases where only the petitioners were represented.

Mandatory provisions in final injunctions

In addition to the relief provisions required to be included in final injunctions, a number of other provisions are also required to be included in final injunction orders by Florida state statute (§ 741.30, Fla. Stat.) and rule (Ch. 12.610,

F.R.C.). These provisions are intended to protect the safety of domestic violence victims and provide clear directions to law enforcement regarding enforcement. However, there were a number of cases in which one or more of those mandated provisions were omitted from the final injunction orders.

MANDATORY PROVISIONS OMITTED IN FINAL INJUNCTIONS (n=745)

PROVISIONS	# OF CASES WITH PROVISIONS OMITTED	% OF CASES WITH FINAL INJUNCTIONS
Findings of DV/imminent danger	89	11.9%
Firearms/ammunition possession	37	4.9%
Respondent bound by injunction	1	0.1%
Valid in all FL counties	3	0.4%
Enforceable in all FL counties	1	0.1%
Reporting alleged violations	1	0.1%
TOTAL	132 provisions - 110 cases	14.8% of cases

- One or more mandatory provisions were omitted from the final injunction in 110 cases, or 14.8% of the cases in which final injunctions were issued. Findings of DV and firearms/ammunition provisions were the most frequently omitted provisions (80.9% and 33.6% of cases with provisions omitted, respectively).

Service of final injunctions

Service on the respondents must be accomplished before injunctions can be enforced. Service on the respondents was accomplished in 612 of the 745 cases where final injunctions were issued—82.1% of the final injunctions were served.

Violations of final injunctions

Once a final injunction has been granted and the respondent has been served, the respondents are bound by the terms of that injunction order. If respondents violate the terms of the injunctions, petitioners are instructed in their paperwork to complete an affidavit of violation at the Clerks’ office so that the court may take appropriate enforcement actions. Violations of the final injunctions are documented as follows. It should be noted that some violations may be handled directly by criminal courts and thus may not be documented in civil case files.

- Alleged violations of final injunctions were documented

in 159 cases, or 21.9% of final injunctions; a total of 183 violations were alleged to have occurred, as some cases contained allegations of multiple violations.

- The most frequent type of violation was contact with the petitioner – 77 cases, 48.4% of cases with alleged violations.

- The next most frequent type of violation was failure to enroll in or complete court-ordered treatment – 64 cases, 40.3% of cases with alleged violations.
- The courts may take a number of actions in response to allegations of violations. The following actions in response to violation allegations were documented.

ACTIONS IN RESPONSE TO ALLEGATIONS OF VIOLATIONS

<u>ACTION</u>	<u>N</u>	<u>%</u>
Order to Show Cause (OSC)	45	24.6%
Criminal contempt	41	22.4%
Civil contempt	32	17.5%
Criminal charge	19	10.4%
No basis for OSC-dismissed	14	7.7%
No action documented	10	5.5%
Arrest warrant	7	3.8%
Referred to SAO	3	1.6%
Other	12	6.5%
Total # of actions	183	100%

Case management

For the purposes of this assessment, case management services included providing referrals to litigants, intake/case summary/civil cover sheets, cross-referencing other cases involving the litigants, case consolidation, alternative dispute resolution or facilitation, compliance follow-up, noting the firearms/ammunition status on the law enforcement notices of service, and clerks’ court notes.

Some case management activities may not have been discernable in

the case file reviews. This is particularly true in instances where court administration staff may have provided case management services that were not reflected in the clerk files.

- Case management was provided in 1,430 cases, or 78% of all cases.
- Clerk of the Courts’ staff provided case management in 1,327 cases, or 73% of all cases; court administration staff provided case management in 293 cases, or 16% of all cases. As noted above, this is likely an

underreporting of case management services provided by court administration staff.

- The most frequently provided case management services included intake/summary/civil cover sheets, noting the firearms/ammunition status on the law enforcement notices of service, and clerks' court notes.
- Documentation in the case files indicated that some form of alternative dispute resolution was used in a total of 96 cases, or 5.2% of all cases. The provision negotiated most frequently was the issuance of final injunctions without findings of domestic violence; this occurred in 73 cases.

Compliance with treatment and firearms surrender provisions

Several provisions included in final injunction orders are particularly important with regard to victim safety and offender accountability—respondents' surrender of firearms and participation in Batterers' Intervention Programs or other appropriate treatment. Respondent compliance with those provisions is noted below.

- Compliance with required BIP attendance was documented in 43 cases (29% of the 151 cases ordering BIP).

- Non-compliance with BIP was documented in 12 cases (8% of the cases ordering BIP).
- In 95 cases, there was no documentation of follow-up regarding compliance with BIP requirements (63% of cases ordering BIP).
- Surrender of firearms was documented in 37 cases (13% of the 285 cases ordering surrender); this documentation was provided by law enforcement officers documenting surrender or sale of the firearm on the notice of service on the respondent.
- In 163 cases (23.1% of the 704 cases prohibiting possession of firearms and ammunition), law enforcement officers had respondents sign a sworn statement that they did not have any firearms or ammunition in their possession; this was documented at the time of service on the respondent.

Modifications and dismissals of final injunctions

Chapter 741, Florida Statutes, states that either the petitioner or the respondent may move the court to modify or dissolve an injunction at any time.

- Requests for modification of final injunctions were made in 157 cases – 21.1% of all cases in which final injunctions were issued.

- Petitioners requested modifications in 103 cases, while respondents requested modifications in 81 cases. In

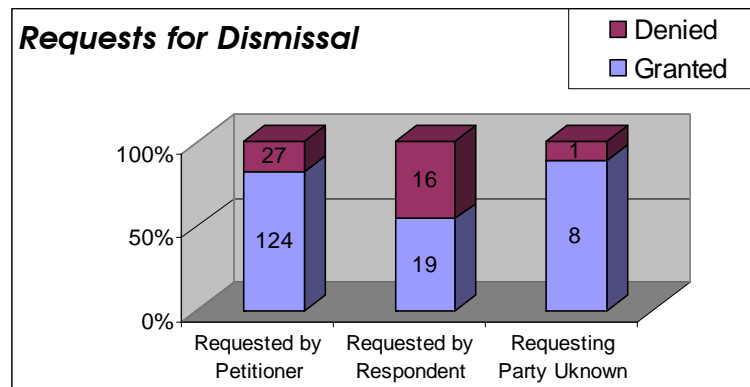
some cases, both parties requested modifications. The types of modifications requested and the modifications granted are shown below.

MODIFICATIONS REQUESTED AND GRANTED

MODIFICATION	REQUESTED	GRANTED	% OF REQUESTED MODIFICATIONS
Type	<u>n</u>	<u>n</u>	<u>Granted</u>
Contact	53	36	68%
Possession house	20	9	45%
Possession pers. prop	6	4	67%
Child custody	26	14	53.8%
Child visitation	50	28	56%
Child support	16	11	68.8%

A number of cases involved more than one request for modification.

- Dismissal of the final injunction was requested in 195 cases, or 26% of the final injunctions granted.



TIMEFRAMES FOR CASE PROCESSING

Chapter 741, Florida Statutes, outlines timeframes for several aspects of domestic violence injunction case processing.

- Upon the filing of the petition, the court shall set a hearing to be held at the “earliest possible time.” (§ 741.30(4), Fla. Stat.)

- When it appears to the court that an immediate and *present* danger of domestic violence exists, the court may grant a temporary injunction *ex parte*, pending a full hearing; any such temporary injunction shall be effective for no more than 15 days. (§ 741.30(5)(a), (c), Fla. Stat.) The court may grant a continuance of the hearing for good cause.

- Within 24 hours after the court issues injunction for protection for domestic violence, the clerk of the court must forward a certified copy of the injunction for service to the sheriff with jurisdiction over residence of petitioner. (§ 741.30(7)(c)1, Fla. Stat.)
- Within 24 hours after the service of process of an injunction for protection against domestic violence upon a respondent, the law enforcement officer must forward the written proof of service of process to the sheriff

with jurisdiction over the residence of petitioner. (§ 741.30(7)(c)2, Fla. Stat.)

The following table displays the average time elapsed in days between actions/events in domestic violence injunction cases. Also shown are the minimum number of days elapsed, representing the most rapid “turn-around,” and the maximum number of days elapsed, indicating the longest time span between events.

Timeframes for Case Processing, for All Counties

Time Elapsed Between Actions/Events (in days)	Mean	Minimum	Maximum
Filing of petition and initial court order*	3.74	1	42
Filing of petition and scheduled return hearing	11.84	0	59
Filing of petition and actual return hearing			
Cases with no extensions	12.10	0	100
Cases with extensions	45.90	3	415
First motion to modify and court's order in response to modification motion	21.55	0	222
Second motion to modify and court's order in response to modification motion	29.69	0	154
Motion to dismiss and court's order to dismiss temporary injunction	7.59	0	238
Motion to dismiss and court's order to dismiss final injunction	17.42	0	122
Initial order and service on respondent	3.44	0	83
Service on respondent (initial order) and filing notice of service with Clerk	4.61	0	96
Final order/injunction and service on respondent	2.87	0	175
Service on respondent (final order/injunction) and filing notice of service with Clerk	1.55	0	54

* In 1,637 cases, the initial order was signed the same day as the filing of the petition. The analysis for this variable excludes these cases, and is calculated for those cases in which at least one day elapsed between the filing of the petition and the signing of the initial order.

Time elapsed between the filing of the petition and the initial court order

- The initial order was signed on the same day as the filing of the petition in 1,637 cases, or 89.5% of all cases.
- There were 13 cases in which the time elapsed exceeded 10 days.

Time elapsed between the filing of the petition and the scheduled return hearing

- In eleven of the 14 counties reviewed, return hearings were scheduled within 15 days in 90% or more of the cases filed; in one of those counties, 100% of cases had return hearings scheduled within the 15 day timeframe.
- There were a total of 166 cases in which the time elapsed exceeded the statutory timeframe of 15 days (9.1% of all cases included in the assessment).
- In one county, return hearings were scheduled within 15 days in 47.5% of the cases reviewed in that county.

Time elapsed between the filing of the petition and the actual return hearing

- The date the hearing actually occurred may be different than the date for which the hearing was originally scheduled due to extensions and other factors.
- In cases with no extensions, all fourteen counties had cases where the return hearing occurred more than 15 days later than the filing of the petition.
- In cases with one or more extensions, there were 14 cases where temporary injunctions/ hearings were extended for 100-200 days; there were four cases where temporary injunctions/ hearings were extended for more than 200 days.

Extensions of temporary injunctions

As noted above, extensions of temporary injunctions substantially delay return hearings. The following analysis was conducted to determine the relationship, if any, between the reasons for extending temporary injunctions and the duration of the delays. The table below illustrates the average delay in return hearings for each reason that hearings are extended.

AVERAGE DELAY IN RETURN HEARINGS FOR EACH REASON HEARINGS ARE EXTENDED

REASON FOR EXTENSION	AVERAGE NUMBER OF DAYS FROM PETITION FILING TO RETURN HEARING
Court schedule	35.0
Petitioner request	38.7
Respondent request	40.8
No reason given	46.1
Lack of Service	49.3
Other	52.2
Respondent failed to appear	66.7
Litigant schedule	80.0

* Although the average number of days varies widely, the sample size is quite small and the differences are not statistically significant.

Modification request timeframes

- There were 42 cases in which orders responding to modification motions took longer than 30 days.

Timeframes for service on respondents and filing notices of service with the Clerk of the Court

- Service on respondents and filing notices of service with the Clerk of the Court are crucial elements of domestic violence injunction cases. Neither temporary nor final injunctions can be enforced until they have been served upon the respondents.
- As shown in the table regarding time frames for case processing, the average number of days elapsed between the issuance of the initial orders and service on the respondents was just over three days; however, in at least one case it took 83 days to accomplish service.
- The average number of days elapsed between the issuance of

the final injunction orders and service on the respondents was less than three days; however, in at least one case it took 175 days to accomplish service.

CONCLUSIONS AND RECOMMENDATIONS

CONCLUSIONS

THE PROCESSING OF DOMESTIC VIOLENCE INJUNCTION CASES

- Intake is accomplished through a variety of arrangements. In most counties, 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 and repeat violence cases. In two other counties, Court Administration staff performed the intake functions; in one of those counties, the court staff members were deputized as Deputy Clerks so that they could assign case numbers and witness/verify and file the sworn documents submitted by the petitioner. The arrangements used vary according to the needs, capacity, and agreements developed in each county with regard to the role of the "key players", demonstrating that flexibility can and should be used to develop local procedures and protocols for handling domestic violence cases most effectively.
- Domestic violence advocates from the local domestic violence centers played a significant role in assisting litigants and complementing resources

available from the court system. Advocates also provided a range of services to petitioners both in and out of the courtrooms, including assistance in preparing petitions, accompanying petitioners to hearings and assisting them there, making referrals to non-court programs, developing safety plans, and following up with petitioners who have requested dismissals.

- Case management services have been very broadly defined for the purposes of this assessment. Therefore, a wide spectrum of players participated in providing services within that definition. Clerks of the Courts' staff, court administration staff, DV center advocates, and even law enforcement officers provided services designed to respond to domestic violence. 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 petitioners.
- Based on observations, a variety of courtroom practices were used to provide security to litigants in DV injunction hearings, including separation of the

parties in the waiting areas and courtrooms, and delaying the departure of the respondents after the hearing to give petitioners a “head start” in leaving the courthouse. In those counties where litigants gathered in the waiting areas, bailiffs were present in the waiting areas in all counties except one, where the waiting area is outside on the front steps of the courthouse. The hearings observed in all 14 counties had from two to four bailiffs in the courtroom at all times.

INPUT FROM KEY PARTICIPANTS

- Those who participate directly in the justice system, i.e., judges, court staff, and bailiffs, reported the most positive opinions of the effectiveness of court processes in handling 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 effectiveness of the court system in handling domestic violence injunctions. At the conclusion of their hearings, petitioners reported somewhat more positive opinions than did respondents on how fairly the court system handled their cases and how seriously the judges took their testimony. Further, numerous survey participants suggested the need for increased enforcement and compliance,

along with faster service of notice and timely filing of notice, as improvements to the domestic violence injunction process. Given all this, one might conclude that the injunction process is perceived to be more effective at providing initial, emergency protection to petitioners/victims than at providing long-term assistance, rehabilitation, or accountability to respondents/offenders. Ultimately, the safety of petitioners/victims may be compromised by an inadequate focus on enforcement of compliance - activities performed after the hearings have occurred and the injunctions have been granted.

- 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. Both judges and clerks cited as challenges those issues related to abuse of the domestic violence injunction process to address other family law issues and pro se litigants who do not understand the statutes, forms, or court processes and thus present poorly prepared petitions/cases. They acknowledged the need to provide due process while attempting to extract detailed facts from unprepared, pro se litigants. Regardless of who

provides assistance (i.e., the Clerk of the Court, court administration staff, local DV center advocates), 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. Coordination within and across agencies eliminated duplication of services while ensuring that domestic violence cases were handled properly and that litigants had access to needed services. Effective coordination systems were identified in both large and small counties. Although every jurisdiction would certainly welcome additional resources, it seems that a focus on the efficient use of existing resources and coordination of services has also produced positive results.
- Judges expressed opinions about a variety of topics, including the appropriate role of judges in handling domestic violence cases and the greatest challenges they

face in handling those cases. 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

- Almost 90% of all cases 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 who may have witnessed domestic violence incidents or experienced abuse themselves, 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. These findings suggest that many litigants were involved in relationships of great complexity in terms of the emotional, financial and legal issues that emerge when violence occurs in families; the subsequent need for services and assistance to litigants and their children seems well documented here.
- The vast majority of petitions filed (over 90%) resulted in the scheduling of return hearings to determine whether permanent injunctions should be issued. Of those cases dismissed at the

return hearing, over two-thirds were dismissed because the petitioners failed to appear at the hearing or they appeared and requested dismissal. In a significant number of cases, petitioners requested dismissal prior to the hearing. Once the final injunctions were granted, dismissal of the final injunction was requested in over one-fourth of those cases; petitioners requested the most dismissals. This might lead one to conclude that the petitioners not only initiated these cases but also played a determinative role in some of the actions taken by the court, particularly with regard to case dismissals.

- The provisions in final injunctions addressed safety issues for petitioners much more frequently than treatment issues for respondents. The safety provisions prohibiting acts of domestic violence against the petitioner, contact with the petitioner, and possession of firearms and 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. While this focus on safety offers immediate protection to petitioners, it does not often address assistance, rehabilitation, or accountability for respondents. In those cases where domestic violence is a pattern of behavior, it is unlikely that any lasting change in the respondents' behavior will occur without some type of treatment. As noted in several of the research articles reviewed in Section One of this report, this lasting change is important and is in the interest of both the court and the litigants in stopping violence in the lives of victims and their children.

- There were a number of differences in the final injunctions based upon whether litigants had legal representation at the return hearing. Using available data, it appears that petitioners generally fared better regarding the issuance of injunctions and the provisions contained therein when only the petitioners had legal representation. However, these findings should be interpreted with some caution, as there may have been cases where litigants were legally represented but the case file did not contain accurate documentation of representation.
- 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. Case management services such as providing litigants with referrals to community resources and performing follow-up activities to ensure respondent compliance with injunction orders were documented far less frequently. Indeed, respondent compliance with BIP attendance and surrender of firearms was documented in a minority of cases where those conditions were contained in the final injunctions. 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. Neither temporary nor final injunctions could be enforced until service on the respondents had been accomplished. Return hearings were substantially delayed or extended until service 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. In almost 90% of all cases, the court issued the initial orders on the same day as the petitions were filed. The time elapsed between the filing of the petitions and the scheduled dates and the actual dates of return hearings varied across cases and counties, though most cases met the timeframe required by statute. In a number of cases, temporary injunctions or hearings were extended for months before the final hearings were held.

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. Such assistance may be provided by the Clerks of the Court, Court Administration, and/or domestic violence advocates, depending upon the needs, capacities, and agreements developed in each county or circuit.

Case management services should be provided to petitioners and respondents to ensure that they are informed of court processes and hearings, they receive information

about and referrals to appropriate community resources, and to ensure that compliance with provisions of injunction orders is documented and enforced. While court-related case management functions are generally performed by Clerks of the Court and Court Administration staff, law enforcement agencies, domestic violence advocates, State Attorneys, and BIP providers also play an important role in providing adequate systemic responses to domestic violence injunction cases.

Circuits and counties should develop mechanisms for effective interagency coordination of processes and services where such coordination does not currently exist. These mechanisms may occur in the form of formally structured coordinating groups or as less formal processes fostering communication and coordination among agencies. All key participants should be included or represented, including but not limited to the court and court administration, clerks of the court, state attorneys, law enforcement agencies, domestic violence centers and domestic violence advocates, probation offices, BIP providers, and supervised visitation programs.

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

by providing avenues for change or rehabilitation for respondents.

Timeliness of the court's actions should be emphasized to avoid the passage of a substantial period of time 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.

The above conclusions and recommendations will be referred to the Domestic Violence Subcommittee of the Steering Committee on Families and Children in Court for further review. The subcommittee may develop additional recommendations and specific implementation guidelines.