

DENVER JUVENILE COURT

Domestic Violence Protocol – Dependency & Neglect Cases

Work began on this Domestic Violence Protocol in June 2002 when a multi-disciplinary committee was organized. During the next year and a half, several agencies contributed expertise to develop and refine the protocol. The collaboration of the following organizations was essential to the success of the project:

AMEND (Abusive Men Seeking New Directions)
Denver CASA (Court Appointed Special Advocates)
Denver City Attorney's Office
Denver Department of Human Services (DDHS)
Denver District Attorney's Office
Denver Domestic Violence Task Force
Denver Juvenile Court
Domestic Violence Offender Management Board
Healing from the Heart
Office of the Child's Representative (OCR)
Project Safeguard
SafeHouse Denver

This protocol is provided not only to the judges and magistrates of the Denver Juvenile Court, but also to dependency & neglect contract attorneys, DDHS caseworkers, CASAs, and others who may affect the outcome of a dependency & neglect case that includes an element of domestic violence.

A consensus among the committee members is that domestic violence will often be present in many of the families appearing in Juvenile Court, and all cases should be screened for this issue.

The protocol is meant to be a guide that highlights issues surrounding domestic violence and lists the services and recommended procedures that are available to ultimately protect the children.

Effective in early 2003, all caseworkers with the Denver Department of Human Services were strongly encouraged to take intensive training on domestic violence.

Training has been available through OCR for contract guardians *ad litem* so that they will better understand the impact of domestic violence on children and their role in a coordinated response to domestic violence.

PRE-HEARING CONSIDERATIONS:

1. Advocate to meet with parent. The Court may need to suggest that the victim be able to speak separately with GAL or the victim's attorney without the presence of perpetrator.
2. Safety plan and needs review of victim and children.
3. Lists of providers to be given to parents and children.
4. ICON and county court computers should be checked for any companion criminal or civil cases for all parents.

ORDERS:

5. Caseworker to provide appropriate referral for intake with an approved provider.
6. Removal of Perpetrator.
7. Protection Orders.
8. Protective Orders.
9. Certify to District Court.
10. Assess the need for bifurcated hearings in appropriate cases for subsequent hearings.
11. Parents to sign orders of release.
12. Parenting time.

1. *Advocate to Meet with Parent.*

The Court may need to suggest that the victim be able to speak separately with GAL or the victim's attorney without the presence of perpetrator.

SafeHouse Denver is presently committed to having an advocate in the courtroom two afternoons each week for new filings in Courtroom 325. The advocate provides emotional support, referrals for services and safety planning.

The Court should be aware of safety concerns in the courtroom. The advocate, attorney or GAL may become aware of safety issues in their conversations with the victim. The court personnel should be aware of any verbal or non-verbal behavior indicating an escalation or intimidating behavior by the perpetrator. If so, the Denver Sheriff's office can be contacted by the clerk.

2. *Safety Plan.*

The DDHS caseworker has probably prepared a preliminary safety plan for the non-offending parent, as well as one for each child in the family.

Please note: the safety plan that is customized for each parent is CONFIDENTIAL and should not be a part of the court file.

At the back of this notebook is a card that lists a sample safety plan that was prepared by Project Safeguard. SafeHouse Denver also provides "Safety Plan for Children" and "Personal Safety Plan". These brochures are also provided in this notebook.

A safety plan considers:

- risk assessment,
- housing options,
- children,
- resources and support systems available, and
- other factors that are specific to each victim.

A referral for the victim can be made to one of the community domestic violence agencies. An advocate will meet in person with the victim to develop a comprehensive safety plan. The victim will also learn how the safety plan may need to change with time and changes in circumstances.

3. *Lists of Providers.*

Ideally, it would be helpful if the victim has a copy of available domestic violence resources in Denver, before the victim leaves the courtroom. The resources can be obtained from any agency representative who may be in the courtroom, including the caseworker, a SafeHouse Denver advocate, or the guardian *ad litem*.

Attached are the following: a one-page “Domestic Violence Resources”, “Resources for Women – Denver County”, “Community Resources” and “Helpful Resources”.

4. *Civil / Criminal History of Parents.*

It would be most beneficial if the caseworker was able to appear at the first hearing for a D&N case with a criminal history of both parents. It is also important that the Court is notified of any other cases that would impact the D&N case, such as a dissolution or a protection order.

The advocate should also be reminded to check the records of Denver County courts, as these are not available on ICON.

5. *Proper Referral to Approved Provider.*

When there are victim or perpetrator reports or recent previous incidents of confirmed domestic violence arrests or convictions, the caseworker will refer perpetrators to approved domestic violence treatment providers. Victims will be referred to community resources.

The caseworker will provide the referral information to the client and to the treatment provider and an intake appointment will be arranged for the provider to determine the type and amount of therapy/counseling necessary. The form on the following page or a similar form may be used for the recommendation. It will be the responsibility of the caseworker to provide the criminal history and/or CBI check to the treatment provider.

The referrals for treatment are specific to the domestic violence issues which are relevant to the Juvenile Court proceeding. Payment sources will be determined on a case by case basis; if treatment is deemed to be appropriate, the client shall bear the cost him/herself.

The treatment provider will need to contact DDHS if other issues affect the treatment provider’s ability to assess for domestic violence or inhibit the client’s ability to progress in treatment. The client must sign all releases of information requested by the provider. A court order may be required to assure that the client signs necessary releases.

The Department recognizes that substance abuse is often involved in both domestic violence and child abuse cases. When substance abuse issues are being addressed through the Juvenile Court action, a referral will be made to the Department’s contracted Substance Abuse Treatment Provider (currently Signal Behavioral Health Network) for evaluation. A copy of this evaluation will be supplied to the domestic violence treatment provider.

Department of Human Services

Social Services

Client Treatment Form

Client Name: _____ **DOB:** _____

Caseworker Name: _____

Date this form was completed: _____

Pursuant to Court Order, Mr./Ms. _____

has been enrolled in the following treatment:

___ **Domestic Violence Counseling**

___ **Parenting Classes**

___ **Alcohol Treatment for** ___ weeks ___ **MH Treatment**

___ **Drug Treatment for** ___ weeks ___ **MH Evaluation**

___ **Relapse Prevention for** ___ weeks

___ **Prescribed Medications**

___ **Other:** _____

Monitored Sobriety:

___ **Random Urinalysis** ___ times per month

___ **Random Breathalyzers** ___ times per week

___ **Monitored Antabuse (disulfiram)**

___ **Other:** _____

My signature below indicates I understand and agree to the above terms and requirements. Any changes to this treatment plan will be discussed among the treatment agency, the caseworker and me.

I agree to begin recommended treatment on: ___/___/___.

Client Signature

Case Worker Signature

6. Removal of Perpetrator.

If the battered parent is otherwise fit and the child(ren) have not been abused by that parent, expect that the caseworker may request the Court to order the perpetrator from the home. The caseworker may also request that the child(ren) not be removed from the home. The rationale is that by removing the children from their home, they may be further traumatized than if the perpetrator was removed. (See "Nicholson v. Scoppetta Update" attached).

Considerations for removal of the perpetrator include any criminal history of the perpetrator that includes not only a history of domestic violence, but also convictions to assault or other bodily-injury charges, child abuse, and drug or alcohol offenses.

If removal does occur, the length of removal may be determined by whether a treatment plan is completed; and that there are no violations of protective orders.

The perpetrator should also be ordered to provide to the Court and DDHS the new address and phone number when it becomes available.

The Court should assess the necessity of court-ordered support to maintain the household upon removal of the perpetrator.

7. Protection Orders. (f/k/a Restraining Orders pursuant to C.R.S. 13-14-101, 14-4-103, and 19-1-113)

The Court should determine whether there are prior protection orders involving the parents and/or children. ICON should be checked, as well as Denver City & County courts. The Court may wish to inquire of the parents if any protection orders exist.

In order to obtain a protection order that will last beyond the duration of the D&N case, the Court may recommend that the victim to go to Courtroom 124D on the first floor to apply for a protection order, pursuant to 13-14-102. If the victim obtains a protection order through county court, a copy of that protection order should be filed with the dependency & neglect case. Note: the caseworker may have already obtained an order before appearing at the first filing of a dependency & neglect case.

A protection order may be ordered pursuant to 19-1-114. Our protection orders that are entered on ICON are posted on CBI through a download to their computer (CCIC).

An "Instructions for Obtaining a Protection Order" is attached. The caseworker or advocate may be able to provide a copy to the victim.

The Court should advise parents as to compliance with the protection order. The victim is to contact police if the protection order is violated.

Mutual protection orders cannot be ordered under CRS 13-14-102 (18) unless the court makes separate and sufficient findings of fact to support the issuance of the mutual protection order. Mutual protection orders hold each partner equally responsible for the violence in the relationship, which is rarely the case in domestic violence. Each matter should be assessed on a case-by-case basis.

8. *Protective Orders.*

The following are suggested protective orders that may be adopted, particularly at the first hearing:

- a. It is never advised to order a domestic violence evaluation of the victim, **as no evaluation exists.**
- b. Parents should notify the court and caseworker of any change of address and telephone number. Addresses of victims should not be released to the perpetrator.
- c. Parents are to cooperate with referrals to community agencies.
- d. A safety plan is to be developed, not only for the victim but also for the child(ren). The caseworker may have already prepared one prior to the first hearing. Since a safety plan should be kept confidential and under no circumstances be made available to the perpetrator, it is never to be included in the court file.
- e. A referral to an appropriate domestic violence program will be considered based on victim or perpetrator reports or recent previous incidents of confirmed domestic violence arrests or convictions. Payment sources will be determined on a case-by-case basis, taking into consideration the client's income and resources, the caseworker's assessment of the perpetrator's current involvement with the family and other relevant issues.
- f. The perpetrator is to enroll and complete domestic violence treatment through a state-approved treatment provider. (List attached) The perpetrator is to pay for treatment. Progress reports must be provided to the caseworker and the Court.
- g. It is recommended that anger management classes should **never** be ordered. The rationale is that anger management does not address the dynamics of domestic violence. Domestic violence is an act of power and control, not of anger.
- h. The perpetrator should be prohibited to use or possess firearms. Federal Law 18 U.S.C.S. Section 922.

There may be circumstances in which the Court would like further information regarding the domestic violence that has occurred, the current risk factors to the victim, the perpetrator's willingness and ability to make changes in his or her behavior.

Several options are available to the Court to accomplish this:

- ordering the perpetrator into domestic-violence-specific treatment and requesting a report from a state-approved treatment provider;
- referring the victim to community resources for help in developing a safety plan and participation in support groups, counseling or other support services; and
- requesting verification from the community resources with the victim's signed consent.

9. *Certify Case to District Court.*

Once the dependency & neglect case is closed, or the jurisdiction is terminated, and the Court wishes to have any existing protection orders to remain in effect, it is important that the case be certified up in district court.

10. *Bifurcated Hearings and Safety Alternatives.*

If domestic violence is an issue in the case, bifurcated hearings should be explored, so that a victim is not further subjected to the threats or intimidation of a perpetrator. Safety of the parties must be balanced with the rights of individuals to be heard. If hearings cannot be held on separate days, then perhaps the times that each parent is to appear in Court can be staggered on the same day, (e.g., one party appearing 30 minutes or an hour later).

Some alternatives the Court may consider include:

- Adding security or law enforcement officers in the courtroom
- Allowing one party to appear by telephone instead of in person
- Allowing a victim's advocate to be present with the victim during the hearing
- Having the perpetrator's attorney present in the courtroom, but having the perpetrator available for consultation outside the courtroom
- Keeping the victim and the perpetrator separated while they are both in the courtroom
- Never leaving the victim and the perpetrator alone in the courtroom
- Providing the victim an opportunity to speak freely to the Court, outside the presence of the perpetrator. (A summary may be provided so that the perpetrator may respond.)

In addition, if mediation is ordered, parties should arrange for separate rooms for each client, which has often been the case in Denver Juvenile. As a batterer will want to take the opportunity to make the agenda the batterer's own agenda, the mediator will need to be extra clear to focus the mediation and maintain control.

11. *Orders of Release.*

The caseworker has a standard form (see attached) that is generally used so that the Department may be able to access information from treatment providers, specifically any counselors.

12. Parenting Time.

The caseworker should be able to recommend whether the children are ready for visits with the non-residential parent. The caseworker should also recommend the number of visits between the perpetrator and the child(ren). The visits should be supervised. The perpetrator is ordered not to consume alcohol and any controlled substance prior to and during a visit. No overnights should take place.

If a relative is to supervise visits, conditions should be established with input from the non-offending parent. Considerations should include who should or should not be present at visits, the length of visits, where they may occur, and what circumstances would cause termination or cancellation of the visit.

13. Attachments.

“Domestic Violence and the Impact on Children”

“How Children Ask For Help”

“Impact of Recurring Domestic Violence”

“Lethality Indicators”

Domestic Violence Resources

Resources for Woman – Denver County