

PARENTING AND CIVIL PROTECTION ORDERS

CIVIL PROTECTION ORDERS

THE BASICS

BASICS OF CIVIL PROTECTION ORDERS

- 33113.31- Family or household members, spouse or ex-spouse, intimate partners (lived together in last 5 years), child in common, related by blood or marriage and have lived together at any time
- Issued based on acts of violence, threats of physical violence, stalking, child abuse or neglect and/or sexually oriented offenses 3113.31 (A)
 - Directly references 2903.211 (stalking) and 2911.211 (aggravated trespass)
- Also want to consider danger of continued or future violence
- Different types of protection orders
 - Juvenile
 - TPO
 - CSPO
 - DVCPO
 - Mutual Restraining Order

SCREENING

- Parallel screening: DV Dept. Staff and DVCAC advocates
 - DV Department will ensure the parties are in the right court and jurisdiction
 - Staff will look to see if there are any competing orders; juvenile court orders or pending or past relevant criminal cases
 - Average 85-90% of litigants are Pro Se so in addition to the screening the staff explains the process of filing and the full hearing in depth before beginning



SCREENING

- Parallel screening: DV Dept. Staff and DVCAC advocates
 - Advocates from the Domestic Violence and Child Advocacy Center are located in the DV Dept. and meet with each litigant prior to filing for a DVCPO
 - Try and have the person filing tell their story only when necessary to reduce re-victimization
 - Advocates talk through safety specifically surrounding filing for a DVCPO
 - Administer lethality assessment to each person they meet with



- Has the physical violence increased in severity or frequency in the past year?
- Does he own a gun? (+4)
- Have you left him after living together during the past year? (+3)
- Is he unemployed? (+3)
- Has he ever used a weapon against you or threatened you with a lethal weapon? (+2)
- Does he threaten to kill you? (+2)
- Has he been avoided being arrested for domestic violence? (+2)
- Do you have a child that is not his? (+1)
- Has he ever forced you to have sex when you did not wish to do so? (+1)

LETHALITY ASSESSMENT

JACQUELYN CAMPBELL, PH.D., R.N.
DANGER ASSESSMENT COPYRIGHT
2003

BEGAN BEING IMPLEMENTED IN
MARYLAND WITH FIRST RESPONDERS
IN 2003 AND SAW A DRAMATIC
DECREASE IN DOMESTIC HOMICIDE
WWW.DANGERASSESSMENT.ORG



- Does he ever try to strangle or choke you?
- Does he use illegal drugs?
- Is he an alcoholic or problem drinker?
- Does he control all of your daily activities?
- Is he violently or constantly jealous of you?
- Have you ever been beaten by him while pregnant?
- Has he ever tried to commit suicide?
- Does he threaten to harm your children?
- Do you believe he is capable of killing you?
- Does he follow or spy on you, leave threatening notes, destroy your property, or contact you when you don't want him to?

LETHALITY ASSESSMENT

SCORING:
LESS THAN 8: VARIABLE DANGER
8 TO 13: INCREASED DANGER
14 TO 17: SEVERE DANGER
18 OR MORE: EXTREME DANGER

LETHALITY ASSESSMENTS

- In 2015, 52.8% of litigants seeking a DVCPO scored in the highest category of danger (extreme) and an additional 22.8% scored in the second highest category of danger (severe)
 - Even in DVCPO cases which were unsuccessful at full hearing or the petitioner did not appear
 - Lethality factors are often still there even without a successful DVPO hearing or police report/prosecution
- Separation increases the risk of spousal homicide by 6 (Se'ver, 1997)
 - The period immediately following dissolution of a relationship, the most dangerous time, is also when most custody and visitation decisions are being made



PARENTING PLANS & DVCPOS

BEFORE, AFTER AND DURING

DVCPO IMPLICATIONS

- When drafting a parenting plan must consider if there is a court order which :
 - Allocates parental rights and responsibilities
 - Limits contact between either parent and child or parent and parent
 - Limits a parents ability to attend the child's school or day care
 - Restricts a parent from being within 500 feet of the other parent's person, home or work
- Also must consider the timing of the DVCPO
 - Prior to parenting plan
 - After parenting plan
 - Concurrent to parenting plan decision



DVCPO CONCURRENT WITH CUSTODY

- Litigating each case at the same time:
- Which order is in place regarding custody and visitation?
 - Have domestic violence concerns been addressed in the DR case?
 - Is visitation safe and appropriate?
 - Is the parent with DVCPO against them asking for custody or visitation?
 - Do any orders need to be modified during the pending cases?
- AJE's regarding custody or visitation in the DR when a DVCPO is in place:
 - Did the DVCPO get modified?
 - Has communication between parties been addressed?
 - Is visitation exchange safe?



DVCPO CONCURRENT WITH CUSTODY

• FAILURE TO PROTECT V. DENIAL OF PARENTING TIME

- Children witness violence in the home based on perpetrators acts of violence
 - Accusations to victim of not protecting children
 - Can involve DCFS and/or criminal charges for child endangering
- Non offending parent refuses to allow minor children to visit perpetrating parent after separation
 - Accusations to victim of being non compliant, parental alienation and being "difficult"
 - Can result in negative ruling in DR or juvenile court case





SAFETY MEASURES

ENSURING YOUR PARENTING PLAN PROTECTS SAFETY OF MINOR CHILDREN AND PARENTS

SAFETY

- Standard parenting plans do NOT account for safety concerns for either the parents or children
 - Emphasizes communication between parties
 - This often requires the parties to have each others cell phone numbers, current addresses and locations of all minor children's day care or school providers
 - Emphasizes compromise
 - Each parent shall take all measures necessary to foster respect and affection between the child(ren) and the other parent. Neither parent shall do anything that may estrange the child(ren) from the other parent, or impair the child(ren)'s high regard for the other parent
 - Always requires an intent to relocate/information on where a parent is living
 - Except as otherwise ordered by the Court, each parent shall keep the other informed of his or her current address and telephone number at all times. Any change of address, or phone number shall be reported to the other parent within 48 hours.
 - Allows pick up and drop off at both parents homes



SAFETY

- Fact Pattern:
 - Petitioner alleges Respondent was physically abusive in front of their joint minor child, who is 5 years old
 - States there have been physical altercations in the past and now he is getting more aggressive
 - Alleges during the latest incident he "pushed me and was physical again while holding my son"
 - During the CPO negotiations the minor child was removed as a protected party on the DVCPO and custody and visitation was left to the pending DR case
- What parenting plan is appropriate?



SAFETY

Agreed under an Interim AJE to have shared parenting

- Safety considerations under this agreement are limited to just pick up and drop off at a police station
- All other standard shared parenting language is included
 - "Children require continued and regular involvement of both parents despite the termination of their parents' marriage. Children who "do best" after divorce are those whose parents are able to maintain a low level of conflict. The absence of conflict is just as important for children's normal and healthy development as the amount of time they spend with each parent."
- Responsibility for conflict under a shared parenting plan or visitation in a DR is always put on both parents
 - With Domestic Violence there are power and control elements that are the sole responsibility of the perpetrator of violence



SAFETY

- Fact pattern:
 - Petitioner was assaulted while 25 weeks pregnant by the Respondent
 - Petitioners step-father and mother were both assaulted during the same incident by the respondent
 - Respondent was found guilty of Aggravated Robbery, Assault and Domestic Violence and served 5 years in jail
 - When released Respondent filed for visitation of their minor child and Petitioner subsequently filed a request for a DVCPO
 - After almost a year of court hearings her request for a DVCPO was denied
- What parenting plan is appropriate in this case?



SAFETY

- Client meets with you to discuss divorce
- Nothing has been filed
- Husband has been drinking and smoking marijuana more
- Has had prior thoughts of suicide
- No reported history of physical violence
- Husband is controlling and states if he can't have wife nobody can
- There is a gun in the household
- Domestic violence or safety concerns?



LAKEWOOD MAN SENTENCED FOR EXECUTING WIFE OF 15 YEARS 'IN COLD BLOOD'

- Murdered his wife Stacy White after a discussion she had with regarding divorce
- He believed it was his "only option"
- Barricaded their 2 year old daughter in the next room before shooting her in the head
- Killed her with HER gun that he had purchased for her

Cleveland.com:

- "White said he got the idea to kill his wife the night before, after a tumultuous weekend in which the couple started talking about getting a divorce."
- "I don't want my daughter around her. Even if I were to divorce her, I would still have to deal with her," he said. "So yeah, I decided I just couldn't take it anymore."



VISITATION EXCHANGE

- More than 1/3 of battered women are subject to severe psychological abuse or threats during visitation and exchange
 - Ex: Petitioner and Respondent had visitation exchanges as part of DVCPO
 - Respondent allegedly violated the DVCPO numerous times during exchanges
 - Petitioner reported three violations and filed a motion for contempt
 - The one she did not report was a sexual assault that occurred during exchange of the minor child
 - Respondent stated she "owed him" due to ongoing court cases
- Separation is the most dangerous time for victims of domestic violence
 - Stalking increases
 - Coercive control becomes more severe
 - BECAUSE the perpetrator is losing control
 - Extra caution is needed in the first year after separation



SAFE VISITATION

- Staggered arrival and departure time
- Emphasis on confidentiality
 - Address
 - Work
 - New partners
- Informing security officers or police stations of the DVCPO and exchanges taking place
- Time frame for forfeit of visitation
 - Restrictions on "make-up" time at the whim of offending parent
- Communication only via writing
 - Preferably a program such as my family wizard or specific e-mail address only used for communication regarding the minor child
 - Text communication
- Time of day
 - Is it dark out?
 - Is exchange in public- is that store open at that time? Will people be around?



SAFE VISITATION

- Lay out process for terminating visits when rules or orders of court have been clearly violated
 - Kicked out of Safe and Sound
 - Criminal case due to violation of order pending
- Step up visitation
 - Begin with supervised during the period of initial separation
 - Review periodically to slowly allow minor children and victim to adjust
 - Reviews also allow for victim to be heard if there have been violations of DVCPPO or DR court orders
- Accountability
 - Parenting class
 - Batterers Intervention Programs
 - Drug and Alcohol treatment
- Securing the focus on the minor children and not the relationship



RESOURCES

- DOMESTIC VIOLENCE DEPARTMENT
 - 216-443-2095
- DVCAC
 - 216-391-HELP
- RAPE CRISIS CENTER
 - 216-619-6192
- SUPERVISED VISITATION
 - DVCAC: SAFE AND SOUND, 216-229-2420
 - OAK FAMILY CENTER: BRUNSWICK, 330-220-1777
 - CENTER FOR EFFECTIVE LIVING, FAIRVIEW PARK 440-333-4949


