

CHAPTER 11

CHILD ABUSE AND NEGLECT CASES WHERE DOMESTIC VIOLENCE IS A FACTOR

This chapter is intended to alert the reader to the impact of domestic violence in child maltreatment cases and emphasize that judicial officers should inquire if domestic violence exists in the families involved in every child abuse and/or neglect proceeding.

Since 2002, significant work has been done to develop and implement the *Washington State Coordinated Response Protocol Project: Template for Coordinated Response to Child Maltreatment and Domestic Violence*. The goals of such a response system include (1) increased safety for children, (2) support for non-offending victims of domestic violence, and (3) accountability for perpetrators of domestic violence. Attachment 1 in this chapter contains the final protocol template which was approved by state leaders in 2005. Since then, judicial-led teams have been working to develop local protocols based on the model template. See, for example, the *King County Domestic Violence and Child Maltreatment Coordinated Response Guidelines* which were completed in 2006 and are posted on the superior court's website.¹

Another project in Washington State, funded by the Violence Against Women, Rural Domestic Violence and Child Victimization Grant, provided training for dependency court teams in 2005. The *Promising Practices for Dependency Courts* recommendations are included in Attachment 2.

This chapter is not intended to serve as a manual for abuse and neglect proceedings.

SUMMARY OUTLINE

- I. The Effects of Domestic Violence on Children**
- II. Child Maltreatment and Domestic Violence**
- III. Judicial Decisions: Child Welfare Proceedings with Domestic Violence Factors**
- IV. Case Law**

Attachment 1: Washington State Coordinated Response Protocol Project: Template for Coordinated Response to Child Maltreatment and Domestic Violence.

Attachment 2: Promising Practices

I. The Effects of Domestic Violence on Children

In Chapter 2, VI, Dr. Anne Ganley describes how domestic violence puts children at risk of physical, psychological, developmental, and emotional damage. Department of Justice research indicates, on average, between 1993-2004, children were residents of the households in which women were victims of intimate partner violence 43 percent of the time.² Research suggests that in an estimated 30 to 60 percent of the families where either domestic violence or child maltreatment is identified, it is likely that both forms of abuse exist.³ A Washington State study of child maltreatment reports to Child Protective Services (CPS) revealed that domestic violence was indicated as present in one in five referred cases and in 47 percent of the cases assessed as a moderate to high risk.⁴

In 2006, the National Council of Juvenile and Family Court Judges and the Office of Juvenile Justice and Delinquency Programs published a comprehensive report, *Children's Exposure to Domestic Violence: A Guide to Research and Resources*.⁵ Studies indicate that exposure to domestic violence itself may not cause physical injury to a child, yet statistically it increases the probability that the child will become a victim of child abuse.⁶

In Washington State of the 261 domestic violence victims killed by abusers or their associates between 1997 and 2006, at least 44 percent had children living in the home with them at the time they were murdered. The majority of the victims' children were present at the time of the homicide and 40 percent witnessed the murder. Abusers killed sixteen children alongside their mothers.⁷

The studies that generated these statistics and many similar studies and statistics dramatically underscore the exposure of large numbers of children to domestic violence. When the child is the direct victim of an assault or battery by a family member, the child abuse is obvious but the domestic violence aspects are not. Child abuse homicides, shaken-baby syndrome, and other severe battering of children are not reported as domestic violence. Child welfare agencies maintain child abuse statistics in general categories or referral types such as parental drug/alcohol abuse; sexual abuse; and neglect (which in Washington is taken to include physical abuse, medical neglect, and chronic neglect). Child welfare statutes, discussed in more detail in the next section, define child abuse in even more general terms, typically abandonment, abuse and neglect, and no capable parent.

Some impacts on children from exposure to domestic violence include:

- Physical injury including death, permanent brain damage, and/or blindness in infant victims
- Aggression
- Sleeping, wetting, and behavior disorders
- Cognitive disorders

- Elevated at-risk behavior: drug and alcohol use, running, teen pregnancy
- Becoming an adult perpetrator

Less obvious than direct injury is the secondary effect of violence between parents, or a parent and partner on the children who hear it, see it, and live with it. The concern is that the abuse does not leave visible marks and may go unnoticed by the mandated reporters (teachers, nurses, doctors, counselors, police (*see* [RCW 26.44.030](#))).

Exposure to domestic violence has short- and long-term consequences, depending on the child's age, gender, stage of development, and role in the family. Pre-school children exposed to domestic violence may suffer from nightmares, encopresis, enuresis, excessive clinging, and fear of abandonment, all, in turn, affecting the child's mental health, adjustment, and ability to learn. At this stage, many of the symptomatic behaviors will be seen only within the immediate family and reporting would thus be minimal. The consequences of early exposure may subsequently be noticed in testing and or developmental assessments, but not the causes.⁸

Exposure to domestic violence is traumatic for children. Some of the more subtle effects, which will not be apparent in testing and assessment, include the belief that violence is an appropriate method of trying to resolve conflict, especially in the context of an intimate relationship, or viewing physical aggression as an acceptable way to get respect or control. Children may tend to feel responsible for family violence, and take upon themselves the role of protector. Again, this type of behavior will inhibit academic performance, social adjustment, and self-esteem.

In 1988 in Snohomish County, seventeen-year-old Andrew Janes murdered his stepfather after years of exposure to domestic violence, direct and indirect. The case is cited for its rulings on the battered child syndrome, but is worth reading as a real and graphic portrait of the effects of domestic violence on children and the failure of the system to intervene. *State v Janes*, 121 Wn.2d 220, 850 P.2d 495 (1993).

Historically, the reasons for court interference in the parent-child relationship have been based on concepts of abandonment, or abuse and neglect. Earlier definitions of abandonment encompassed circumstances that showed a "willful substantial lack of regard for parental obligations." Parental obligations have been held to include: (1) express love and affection for the child; (2) express personal concern over the health, education, and general well-being of the child; (3) the duty to supply the necessary food, clothing, and medical care; (4) the duty to provide an adequate domicile; and (5) the duty to furnish social and religious guidance. *In re Adoption of Lybbert*, 75 Wn.2d 671, 453 P.2d 650 (1969).

The parent-child relationship is so significant that it is protected in terms of fundamental rights and constitutional due process and “[i]t is the general rule that courts zealously guard the integrity of the natural relation of parent and child.” *Lybbert*, at 674. However, when the rights of the parents and the rights of the child come into conflict, there has been and continues to be a clear and emphatic requirement that the rights and safety of the child prevail. *In re Matter of Allen*, 139 Wash. 130, 245 P. 919 (1926); [RCW 13.34.020](#).

II. Child Maltreatment and Domestic Violence

The early inclusion of failure to meet parenting obligations in abandonment definitions has given way to the statutory definition of parenting capability discussed in the next section. Unfortunately, throughout the refinements of the child welfare statutes, the advent of mandated reports, and heightened public awareness of the effects of domestic violence on children, parents complaining of domestic violence concerns to Child Protective Services (CPS) were likely to be referred elsewhere. The institutional failure was noted in the Andy Jane’s case.

In response to increased recognition of the co-occurrence of child maltreatment and domestic violence, Justice Bobbe Bridge established a multi-disciplinary leadership network in 2002. Their purpose was to create a set of principles for organizations across Washington State that will guide practice when responding to domestic violence in families at risk for involvement of Child Protective Services. In 2005, the *Washington State Template for Coordinated Response to Child Maltreatment and Domestic Violence* was finalized. See Attachment 1.

Judicial officers across the state are leading efforts to develop a coordinated response protocol that meets the needs and resources of their regions. The *King County Domestic Violence and Child Maltreatment Coordinated Response Guideline* was completed in 2006. See DV Response Guidelines at <http://www.metrokc.gov/kcsc>.

III. Judicial Decisions: Child Welfare Proceedings with Domestic Violence Factors

Child abuse and neglect proceedings in the State of Washington are governed by [RCW 13.34](#) *et seq.* The juvenile court has *exclusive, original jurisdiction* over the child once an [RCW 13.34](#) petition has been filed. This means the placement, parental contact, visitation, and services for the child cannot be addressed in another court including proceedings for parenting plan orders or protective orders. [RCW 13.04.030](#). *In re Marriage of Perry*, 31 Wn. App. 604, 644 P.2d 142 (1982). The juvenile court may, and in appropriate circumstances should, grant concurrent jurisdiction with another court.

The juvenile courts are empowered to issue orders for:

- Emergency removal
- Temporary shelter care
- Dependency fact finding and disposition
- Permanency planning
- Return home
- Termination of parental rights
- Adoption
- Court-approved placement, guardianship; third party custody,

Any of these proceedings might involve placement or visitation. The court may be called upon to make or approve a change of placement between or among relatives, foster care, group care, or independent living. The success of a placement depends on the fit of the placement and the child. The child's background and circumstances must be understood, as well as the safety and suitability of the placement resource.

Under the Washington State Coordinated Response Protocol Template Child Protective Services workers are encouraged to screen child maltreatment referrals for the presence of domestic violence and to make appropriate service referrals.

A. Definitions of Dependency

[RCW 13.34.030\(5\)\(a\)-\(c\)](#) provides:

“Dependent child” means any child who:

- (a) Has been abandoned;
- (b) Is abused or neglected as defined in [Chapter 26.44 RCW](#); or
- (c) Has no parent, guardian, or custodian capable of adequately caring for the child, such that the child is in circumstances which constitute a danger of substantial damage to the child's psychological or physical development.

The cross-referenced definition of abuse and neglect in [RCW 26.44.020 \(12\)](#) includes among other things injury or negligent treatment or maltreatment such that the child is under “circumstances which indicate that the child's health, welfare, and safety is harmed.” Further, under [subsection \(15\)](#), negligent treatment or maltreatment includes acts or omissions, which “evidences a serious disregard of consequences of such magnitude as to constitute a clear and present danger to the child's health, welfare, and safety.” Effective January 1, 2007, subsection 15 was amended to expressly provide that “exposure to domestic violence as defined in RCW 26.50.010 that is perpetrated against someone other than

the child do(does) not constitute negligent treatment or maltreatment in and of themselves(itself).” [RCW 26.44.020 \(15\)](#)

This amendment was enacted to insure that courts did not remove children from the non-abusive parent solely because she/he was a victim of domestic violence.

B. Emergency Removal

[RCW 13.34.050\(1\)\(a\), \(b\)](#) provides that the court may order law enforcement, Child Protective Services (CPS), or a probation counselor to take a child into custody when a dependency petition has been filed alleging that “the child’s health, safety, and welfare will be seriously endangered” and one of the supporting allegations “demonstrates a risk of **imminent** harm to the child.” (*Emphasis added.*)

Thus, in an ex parte pick up order, some more immediate risk than the secondary or developmental effects discussed above seems to be required. (Obviously, if the child is alleged to be the direct victim of an assault, this is established.)

C. Shelter Care

A child picked up pursuant to a court order must be placed in shelter care and a hearing held within seventy-two hours. The shelter care hearing, conducted pursuant to [RCW 13.34.060](#), addresses whether there is reasonable cause to believe the child’s health, safety, or welfare is in jeopardy. “Jeopardy” might reasonably be construed as danger or risk. All child welfare proceedings are concerned with risk to some degree, but pick-up requests and shelter care hearings especially are concerned with risk assessment.

CPS in the State of Washington uses a published **Risk Factor Matrix** to quantify risk factors as low, medium, or high. Domestic violence between caretakers is assessed as follows.

- Caretakers who resolve conflicts in a non-aggressive manner are considered a family strength rather than a risk.
- An isolated incident of assaultive behavior not resulting in injury is **low risk**.
- Sporadic incidents of assaultive behaviors which result in or could result in minor injury is a **moderate risk**.
- A single incident or repeated incidents of assaultive behavior, which results in, or could result in, major injury is **high risk**.

While there is room for debate in considering the actual effects of secondary exposure to domestic violence on an individual child, there should be no question that there is a risk to both physical and mental health. The law is clear that we should not wait for actual physical injury to intervene. *In re Matter of Frederikson*, 25 Wn. App. 726, 610 P.2d 371 (1979). It is the perpetrator of domestic violence that should be held accountable for the behavior not the adult victim/survivor.

The law is also clear that failure to provide an emotionally nurturing stable home is as much neglect as physical harm. *In re Matter of Dodge*, 29 Wn. App. 486, 628 P.2d 1343 (1981). It is the perpetrator of domestic violence that should be held accountable for the behavior causing emotional harm to the child not the adult victim/survivor.

At the shelter care stage, the court will typically have little information beyond the facts alleged in the verified petition and the testimony of those witnesses available on short notice. Social history will not have been collected, assessments have not been ordered, let alone completed, and a Court Appointed Special Advocate (CASA) has not been appointed. Whatever placement is being considered, if there is a hint of domestic violence concern, a DV database screen should be required. (See Chapter 9 for instructions on using the Judicial Access Browser (JABS)). Shelter care placement can be with the parents on conditions. Conditions might include perpetrator to leave the home, adult victim-parent to enter a shelter approved by the CPS worker, or a suitable relative to move into the home.

If the perpetrator is in jail, and there appears time to accomplish it before release, the juvenile court could grant the victim parent, an order that excludes the perpetrator from their shared residence in order to protect the children from further harm or coercion. The non-abusive parent may be encouraged to obtain a domestic violence protection order. The court may also restrict the perpetrator's access to the child. [RCW 26.44.063](#). A concurrent jurisdiction order should also be entered if the perpetrator has any legal rights with respect to the child.

D. Dependency, Fact Finding, and Disposition

Shelter care is a legal status as well as a physical placement. It lasts until the dependency petition is granted or dismissed. If granted, pursuant to stipulation or fact-finding, the court is required to enter a disposition order. [RCW 13.34.130](#). The purpose of the disposition is to address parental deficiencies to reunite the family. Compliance of the parent and the social service agency with court ordered service plans is monitored through the permanency planning process. If the reunification appears unlikely, an alternative permanent plan including termination of parental rights is developed. [RCW 13.34.145](#).

Dependency dispositions and permanent plans emphasizing reunification can be complicated by domestic violence concerns. Reconciliation services, family counseling, and home-based services are generally not appropriate services in domestic violence situations until the perpetrator has undergone batterer's treatment and accepts responsibility for the behavior. The zero tolerance for violence central to batterer's treatment is contradictory to negotiation and compromise. Mothers caught up in a domestic violence relationship are stuck between a rock and a hard place: behavior seen by child welfare authorities as "failure to protect" may actually be motivated by a desire to care for the child. Such a mother may not attempt to leave because of financial needs, because she believes the children need a father, or because she fears losing the child to the abuser. On the other hand, if the mother takes the children and leaves the abuser, the conventional family court model might characterize her as interfering with the father/child relationship. In jurisdictions that favor the "friendly parent" doctrine, a parent who takes a strong position against the other parent is at a real disadvantage. Washington is not such a jurisdiction.⁹

Judges, especially those in family and juvenile court, tend to want to encourage negotiation and compromise. Coupled with the law's requirement for child welfare agencies to provide reasonable efforts to reunify families, a dangerous minimization of domestic violence issues could occur. The family court ideal of shared residential time and equal parents planning for their children's future is compelling, but it is also dangerous when family violence is a factor. Shared parenting may perpetuate the abuse of power and control in family relationships.

Reasonable efforts to reunify the family and correct parental deficiencies, and the often lengthy process of court monitoring and review of such efforts while the child is in alternative care, may be forgone where aggravated circumstances exist. [RCW 13.34.132\(4\)](#) identifies several such circumstances without mention of domestic violence. The statutory list is not exclusive. The court may order DSHS to file a termination petition when any aggravating circumstances make it unlikely that the provision of services to the parent would lead to the family's reunification. *In re Dependency of J.W.*, 90 Wn. App. 417, 953 P.2d 650 (1969). Note that since this decision, the statute was amended to require proof of the aggravated circumstances by clear, cogent, and convincing evidence.

At any stage of proceedings a history of domestic violence is as important as a current act of domestic violence for two reasons. First, in child welfare cases the entire history of parenting is before the court, not just the specific acts that are alleged in the petition. *In re Matter of Ross*, 45 Wn.2d 654, 277 P.2d 335 (1954). Second, past history is a factor to be considered in assessing current parental fitness. *In re Matter of J.C.*, 130

Wn.2d 418, 924 P.2d 21 (1996). This case involved substance abuse but the analysis could reasonably be applied to domestic violence because of similarities in the behaviors: ingrained patterns, denial, low treatment success rates, and negative consequences for children.

E. Practice Tips

The most important thing a judge can do in a child abuse or neglect case is ask questions! Some good ones are:

1. Ask questions
 - a) For the agency social worker:
When did you last see this child?
 - b) For the parent:
What is the last thing you did to get your kid back?
 - c) For both:
Inquire about other adults and children that may be in the child's environment.

Use the domestic violence data base in the Judicial Access Browser (JABS) for placement resources that are not known to the Department of Social and Health Services (DSHS). DSHS does not have access to this database and requires several days at best to get a criminal history report.

In view of the effects of domestic violence referenced in Section I, domestic violence should be seen by the court at the least as a “serious disregard of consequences constituting a clear and present danger of a child’s welfare” or as a “circumstance which constitutes a danger of substantial damage to the child’s psychological development.”

2. Craft appropriate orders

Where there is domestic violence in child protection cases, judges should make orders which:

- a) Keep the child and parent victim safe;
- b) Keep the non-abusive parent and child together whenever possible;
- c) Hold the perpetrator accountable;
- d) Identify the service needs of all family members, including all forms of assistance and help for the child; safety, support, and economic stability for the victim; and rehabilitation and accountability for the perpetrator;
- e) Create clear, detailed visitation guidelines which focus upon safe exchanges and safe environments for visits.”¹⁰

Child welfare cases are rarely easy to rule on. The court must strive to be as informed as possible. Behind every report from a government social worker is an enormous inertia to standardize information and a staggering caseload. Behind every answer from a parent is a minefield of barriers to accessing services and a compelling need to minimize. The antidote is individualized decision-making that places great weight on the child’s best interests.

The court should be aware of separation of power issues between the executive and judiciary if considering ordering DSHS to perform specific actions in abuse and neglect cases. *In re Matter of Lowe*, 89 Wn.2d 824, 576 P.2d 65 (1978); *In re Detention of W.*, 70 Wn. App 279, 852 P.2d 1134 (1993).

Child welfare cases that come up on regular calendars are often managed by local rules restricting the information presented to declarations and affidavits. Such restrictions should be balanced with the parents’ due process rights to participate especially when placement and visits are at issue. *Dependency of R.L.* 123 Wn. App 215 (Sept. 2004); *Dependency of H.W.*; 123 Wn App. 237 (Sept. 2004).

IV. Case Law

In re Welfare of Frederikson, 25 Wn. App. 726, 610 P.2d 371 (1979).

There is no need to wait until a parent commits physical abuse or neglect and actually damages a child’s development by failure to meet its physical, mental, and emotional requirements if the danger of such result is clear and present.

In re Dependency of J.W., 90 Wn. App. 417, 953 P.2d 104 (1998).

Aggravated circumstances to expedite termination of parental rights are not limited to those enumerated in [RCW 13.34](#). Any aggravating

circumstances that make it unlikely that the provision of services to the parent would lead to the family's reunification may be used.

In re Dependency of C.B., 79 Wn. App. 686, 904 P.2d 1171 (1995).

Father imprisoned for domestic violence manslaughter of the mother had his parental rights terminated after his release from prison. The trial court used the aggravating factor "murder or manslaughter of the parent's spouse." Father claimed this amounted to an "automatic" termination in violation of his due process rights. The Court of Appeals held that it is not the fact of the aggravating circumstance that compelled the termination; rather, the aggravating circumstance triggers application of a more stringent standard of proof on the key issue of whether the parental deficiencies could be remedied in "the near future."

State v. Janes, 121 Wn.2d 220, 850 P.2d 495 (1993).

Facts that prove the battered child syndrome sufficient to support a self-defense instruction include domestic violence against the child's mother.

In re Dependency of J.C., 130 Wn.2d 418, 924 P.2d 21 (1996).

Parental history is a factor to be considering in assessing current parental fitness.

In re Adoption of Lybbert, 75 Wn.2d 671, 453 P.2d 650 (1969).

Establishes the minimum obligations of a parent.

In re Allen, 139 Wash. 130, 254 P. 919 (1926).

When the rights of the parent are in conflict with the rights of the child, the child's rights prevail.

In re Welfare of Sego, 82 Wn.2d 736, 513 P.2d 831 (1973).

Appellate review of child welfare case findings is confined to determining if such findings are supported by substantial evidence in light of the degree of proof required (probable cause, preponderance, clear, cogent, and convincing).

In re Welfare of Schulz, 17 Wn. App. 134, 561 P.2d 1122 (1977).

Permanent deprivation of parental rights must be supported by clear, cogent, and convincing evidence. Each case must necessarily be decided on its own facts.

In re Chubb, 46 Wn. App. 530, 731 P.2d 537 (1987).

On review of dependency finding, the appeals court may look past the trial court's written findings, which are conclusionary and lack specificity, to the trial court's oral decision to determine whether findings of fact are supported by substantial evidence.

In re Welfare of Dodge, 29 Wn. App, 486, 628 P.2d 1343 (1981).

Failure of a parent to provide emotional nurturing, stability, and permanence can be as harmful to a child's well being as physical abuse or failure to provide adequate food, shelter, or clothing. Such failure constitutes neglect whether resulting in physical or emotional harm to the child.

In re Welfare of S.E., 63 Wn. App. 244, 820 P.2d 47 (1991).

Parent does not have the right to confront the child abuse victim in court in a termination proceeding so long as other measures are taken to obviate the risk of error. Such measures are excluding the parent while having the testimony be on the record with counsel present, allowing cross examination, and providing opportunity for rebuttal evidence.

In re Marriage of Perry, 31 Wn. App. 604, 644 P.2d 142 (1982).

The juvenile court may exercise its exclusive jurisdiction over [RCW 13.04](#) by granting concurrent jurisdiction in Superior Court to enter parenting plan orders.

In re Welfare of Lowe, 89 Wn.2d 824, 576 P.2d 65 (1978).

The juvenile court may not specify at which institution youth will be placed.

In re Detention of W., 70 Wn. App 279, 852 P.2d 1134 (1993).

Court may not specify in which facility involuntary commitment patient will be placed.

In re Welfare of J.H., 75 Wn. App. 887, 880 P.2d 1030 (1994).

Trial court lacks authority to order State to provide housing funds.

Dependency of H.W., 123 Wn. App 237 (2004)

Local rule restricting live testimony in motions hearings requires harmonization with RCW 13.34.090 (1)

Dependency of R.L., 123 Wn. App. 215 (2004)

The right to be heard does not necessarily mean the right to give oral testimony or call witnesses but where placement of a child is concerned giving interested parties a meaningful opportunity to present evidence coincides with the best interests of the child.

Attachment 1

Washington State Coordinated Response Protocol Project Template for Coordinated Response to Child Maltreatment and Domestic Violence

This project was supported by Grant No. 2002-WF-BX-002 awarded by the Violence Against Women Grants Office, Office of Justice Programs, U.S. Department of Justice to the Washington State Gender and Justice Commission. 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.

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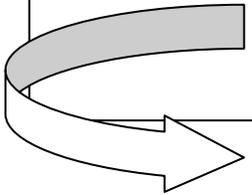
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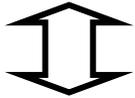
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Statewide Leadership Network

Chair: Justice Bobbe Bridge, WA State Supreme Court
 Ross Dawson, WA State Children’s Administration
 Judge Deborah Fleck, King County Superior Court
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 Representative Ruth Kagi, 32nd Legislative District
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 Laurie Lippold, Children’s Home Society of Washington
 Diane Clarkson, Washington Association of Prosecuting Attorneys
 Joanne Moore, WA State Office for Public Defense
 Ron Murphy, Casey Family Programs
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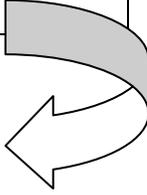
Leadership Network Purpose: Design and finalize a statewide protocol template; oversee draft of policy to support protocol; provide support and technical assistance to local jurisdictions to customize and implement the protocol



Regional Implementation Leadership

Region 1	Region 2	Region 3	Region 4	Region 5	Region 6
Judge Gregory D. Sypolt	Judge Carrie L. Runge	Judge Charles Snyder	Judge Joan Dubuque	Judge Thomas Larkin	Judge Chris Wickham

Purpose of Regional Implementation Sites: To provide input into the purpose, content and design of statewide template, to provide feedback and guidance to the Statewide Leadership Network on barriers, challenges or needs related to the project implementation; to identify policy implications; to lead the implementation of the protocol at the local level



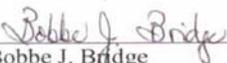
Protocol Leadership Network

A statewide collaborative leadership network has been established to:

1. In conjunction with regional implementation groups and stakeholders, design a statewide protocol template.
2. Provide technical assistance to local jurisdictions implementing the protocol template.
3. Provide oversight and guidance in the development of statewide policy and procedures to support the implementation of the protocol.

This template sets forth elements critical to a consistent coordinated response to domestic violence and child maltreatment. Each local protocol should respond to the elements listed below, either by adopting them where they are explicitly outlined, or by addressing the elements that must be locally-customized.

Protocol Signatories:


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I. INTRODUCTION

The Washington State Coordinated Response Protocol Project, chaired by WA State Justice Bobbe Bridge, was developed by a multi-disciplinary Leadership Network including representatives from the Department of Social and Health Services, the Coalition Against Domestic Violence, various Washington courts, the Superior Court Judges' Association, the Legislature, the Washington State Office of Public Defense, the Attorney General's Office, the Washington Association of Prosecuting Attorneys, Washington State CASA, and the Children's Home Society. This Leadership Network, in conjunction with regional implementation sites, has shaped the design and content of this protocol template.

In recent years, professionals who work in the field of domestic violence have recognized that there is a lack of common understanding among victim advocates, child welfare authorities, law enforcement, and the courts in dealing with the effects that domestic violence has on families. Problems raised by domestic violence are compounded by differing perspectives about how to address its impacts on families. It has become clear that discussion and resolution of these conflicting outlooks is essential to the common goal of protecting women and their children and stopping the generational cycle of domestic violence.

Statewide Initiative Vision: To create community wide response systems that lead to increased safety of children, support for adult victims of domestic violence and accountability for perpetrators of domestic violence by attending to the following principles:

1. The safety of abused children is often linked to the safety of their non-offending parent. By helping adult victims of domestic violence secure protection, the safety, permanence and well-being of the children also is enhanced.
2. Perpetrators of domestic violence who abuse their partner also emotionally or psychologically harm their children, even if the children are not physically or sexually harmed. Comprehensively identifying and assessing domestic violence is critical in reducing risks to children;
3. Every effort should be made to keep the children in the care of the adult, non-offending parent.
4. Respecting the rights of adult victims to direct their own lives; and
5. Perpetrators of domestic violence must be held solely responsible for the violence while receiving interventions that address their abusive behaviors.

Statewide Initiative Goals:

1. To create a set of principles and intervention guidelines for communities across Washington State that will guide practice when responding to families experiencing domestic violence and child maltreatment.
2. To provide technical assistance to local jurisdictions as they customize and implement the statewide template.
3. Develop and facilitate the adoption of statewide policy and procedure to support the recommended protocol template.

II. PROTOCOL DEVELOPMENT

The National Council of Juvenile and Family Court Judges recommends all participants in the juvenile court process look to judicial officers for leadership in reaching the goals and mandates of the court. The Council further recommends these judicial officers accept leadership responsibility for ensuring the goals of the court are realized. Judicial officers are recognized and respected by community members and carry with them the power to convene. Therefore, it is the recommendation of the Statewide Leadership Network that each regional effort be led by a court Commissioner or Judge.

It is recommended that each regional Judicial Leader convene a multidisciplinary group to develop a written protocol for responding to domestic violence and child maltreatment cases. The Judicial Leader shall invite participation from community partners within the community (including tribal representatives). After the protocol is finalized, the group shall meet at least once every year to review the protocol and modify it as needed.

Suggested Local Participating Organizations:

It is recommended these organizations have representation as the local protocols are developed. This list is not exhaustive and will be customized according to the community's resources.

- Judicial Officers (courts- civil and criminal (probation and prosecuting attorneys are part of the courts))
- Superior Court Judges Association
- Washington State Children's Administration
- Domestic Violence Victims Services Providers
- Washington State Attorney Generals Office
- Washington State Court Appointed Special Advocates
- Probation Officers
- Prosecuting Attorneys
- Defense Attorneys
- State Certified Perpetrator Intervention Providers
- Law Enforcement
- Medical personnel
- Economic Services Administration
- Mental health services providers
- Schools
- Other

Advisory Comments

It may help individual providers to receive copies of the local protocol, or parts of it, in a form designed for quick reference in the field: for example, laminated sheets that fit into a pocket or purse.

III. MISSION STATEMENT

It is recommended that local protocols describe the purposes of the protocol and reference the guiding principles endorsed by participants in responding to domestic violence and child maltreatment.

Protocol Recommendations:

1. Each protocol articulates a mission statement that incorporates the following guiding principles:
 - a. Domestic violence shall not be considered child maltreatment per se. A thorough assessment must be conducted to determine the level of risk posed to the child by the domestic violence occurring.
 - b. The perpetrator of domestic violence shall be held accountable for the domestic violence, and any subsequent risk posed by such behavior.
 - c. It is generally in the best interest of the children to remain in the care of the adult victim, non-offending parent.
 - d. Increasing the safety, autonomy and emotional well being of the adult victim generally leads to safer outcomes for children.
 - e. Each family deserves an individualized response that allows them to participate in the development of a plan that will lead to increased safety for all members of the family.
 - f. Attending to the family's cultural strengths and resources is paramount as is monitoring whether services are being provided in a culturally responsive manner (including a statistical way to keep track of demographic information of family members).
 - g. Effective treatment and support resources for families experiencing domestic violence where children are present are essential components to an effective coordinated community response system.
2. The mission statement identifies the target population of the protocol.

IV. AGENCY ROLES AND RESPONSIBILITIES

The agencies and/or professionals that provide intervention and support to families experiencing domestic violence and child maltreatment have different roles and responsibilities. It is important that professionals recognize and respect the knowledge, training, and responsibilities of their colleagues and refrain from engaging in activities outside the scope of their function or which interfere with the duties of one another.

Protocol Recommendations:

1. Protocol defines the roles, responsibilities and limitations of the key agencies, including the specific statutory, policy and procedural requirements shaping roles and responsibilities.
2. Protocol includes copies of policy, procedure or legislative direction that shapes the organizations roles and responsibilities related to responding to domestic violence and child maltreatment.

V. COORDINATION BETWEEN AGENCIES

Coordination amongst agencies is essential in order to execute a community coordinated response system.

Protocol Recommendations:

1. Protocols outline how the notification process will work in their community.
2. Protocols outline the development and implementation of an interagency case staffing process for cases involving domestic violence and child maltreatment. It is recommended the staffing protocol include the following information:
 - What cases qualify for the staffing
 - What is the overall purpose of the staffing
 - Who shall participate
 - How participants are selected
 - How safety of victim and children will be addressed
 - How confidentiality will be maintained
 - Who will facilitate the staffing
 - How will referrals be made
 - How accountable are participants to the staffing recommendations
3. Protocols outline a plan to organize routine cross training opportunities in every community by and for each system. Topics for the cross trainings might include but are not limited to:
 - Definition of common and agency specific terms
 - Definition of domestic violence
 - Dynamics of domestic violence
 - Understanding the differences between anger management and DV, spiritual, marriage/couples counseling and state certified batterers intervention programs
 - Recognizing non-physical DV
 - Identifying the systemic barriers that create challenges
 - Each system's roles and responsibilities, agency accountabilities and mandates
 - Understand the differences in language each system uses
 - Agency roles and responsibilities
 - Agency policy and procedures

Advisory Comments

Please see in Appendix Section Six examples of legislative mandates that shape how organizations must respond to domestic violence and child maltreatment such as confidentiality laws that DSHS organizations must follow (and the state DSHS release form). It is recommended that local organizations include examples of exchange of information forms they are using and mandates they must follow related to exchange of information.

VI. INFORMATION SHARING

Members of a coordinated community response should be able to share appropriate information with each other. When working out information sharing protocol in responding to domestic violence consider the following:

- Organizations are bound by very different confidentiality mandates
- Safety needs to be a primary consideration when exchanging information

Protocol Recommendations:

1. Protocols publish a formalized understanding of the appropriate process for exchanging of information, including a description on when and how safety issues are considered.
2. Protocols address how and when information will be shared among members of the protocol design team. Information sharing should ensure confidentiality, protection of the child, and protection of the adult victim.

Advisory Comments

In drafting the local protocol, each agency participant, as well as the protocol committee, might consider the following questions:

1. Under what circumstances can participating agencies share information with each other?
2. What criteria will be used to decide not to share information (for example, public disclosure laws)?
3. To whom will agencies fully disclose investigative information?
4. To whom will agencies selectively disclose investigative information? For example, what information will be shared with community representatives on a multidisciplinary team, victim advocates who work in community-based organizations, and other relevant parties? In some cases, a dependency case may occur while a related criminal investigation is pending; these occasions pose additional issues for information sharing. The local protocols may address ways to take protective measures to prevent premature release of information (for example, release of law enforcement investigations pursuant to shelter care hearings).

VII. COURT IMPROVEMENT

Courts play an integral role in assuring safety and best practice when providers are responding to domestic violence and child maltreatment. Depending on local resources and court process, it is recommended courts consider implementing the following recommendations:

1. The development of mechanisms to coordinate between all courts, including family, juvenile, district, and municipal courts.
2. Using the domestic violence data base when making decisions regarding placement of children (used prior to hearing and information shared with all parties).
3. Establish a one judge-one family rule.
4. Create a secure environment in the court.
5. Request information in order to evaluate the impact of domestic violence on the family using recommended assessment domains.
6. Request information on the history of contact between the perpetrator and the child.
 7. Develop procedures to routinely access the JIS database and get a complete civil and criminal history for all parties involved in the case. (or check to see if social worker has done routine criminal history checks).
8. Assure recommended services are appropriate and not putting adult victim and children at greater risk.
9. Continue hearings if appropriate information is not included in the report.
10. Do not default to the statutory six month review process in every case.
11. Provide leadership to increase collaboration within your community.

VIII. INTERVENTION GUIDELINES

These intervention guidelines have been developed by multidisciplinary teams from around the state and endorsed by signatories of the statewide protocol template.

Protocol Recommendations: It is recommended the local protocols identify the following:

- Which organizations will be implementing the intervention guidelines
- What the implementation process will be
- What resources are needed to implement intervention guidelines, and a resource acquisition plan

1. Routine screening

Routinely screening for domestic violence with any new case is essential. If domestic violence is occurring undetected with a family, intervention can increase risk for family members and helpers and interventions tend to be less effective. Staff from all disciplines should conduct routine screening. It should be ongoing, throughout the life of a case, as domestic violence can occur at any point in the life of a case.

Routine screening should be conducted with all referents and during initial interviews with families. When asking these questions separate family members by saying, “these are routine questions that I have to ask each of you separately”.

The purpose of routine screening is to 1) determine whether domestic violence is occurring and 2) if domestic violence is indicated, to determine who the perpetrator and who the adult victim is. When routine screening, one should be able to answer the following question: “has there been the use of physical force, or the threat of physical force by one partner against the other in this relationship?”

It is recommended the following principles be incorporated into local protocols to execute routine screening effectively:

- Routine screening should be conducted with all referents and during initial interviews with all families. Local jurisdictions shall identify routine screening questions to be used by each signatory organization.
- Conduct interviews with family members separately when screening for domestic violence. Local jurisdictions shall publish sample language to assist providers in separating family members when screening for domestic violence.
- Routine screening should occur routinely throughout the life of a case. Local jurisdictions shall identify frequency with which screening shall occur during ongoing cases in each signatory organization.
- If domestic violence is indicated in referrals or initial interviews with family members, then careful, separate assessments of the safety should be conducted with the non offending parent, perpetrator and children.

Advisory Comments:

See appendix Section Two for sample routine questions.

2. Assessment

If domestic violence is indicated in referrals or initial interviews with family members, then careful, separate assessments of the safety should be conducted with the adult parent, perpetrator and children. General considerations when assessing domestic violence are:

- Staff should always pay attention to worker safety when working with families experiencing domestic violence.
- When domestic violence is indicated, a worker should always work with the victim and children to develop a safety plan to address immediate safety needs of the family.
- In gathering information about domestic violence, the worker should discuss with the victim the safety of a law enforcement referral if appropriate.
- The worker should share with family members the limitations and regulations related to their confidentiality rights.
- The workers should build rapport with a victim of domestic violence by focusing on safety concerns and demonstrating an understanding of the dynamics of domestic violence may help the victim in disclosing difficult information about the domestic violence.
- The worker should not confront the domestic violence perpetrator. Interview the perpetrator in a way that encourages him to disclose his own abusive behavior. Do not try to force disclosure to confirm domestic violence.

It is recommended the following assessment domains be incorporated into local protocols to execute assessment of risk effectively:

- 1) The power and control tactics (including physical, emotional, sexual, intimidation, threats, use of children and economic) being used in the relationship, including:
 1. How the children are being used by the batterer and
 2. A danger assessment
- 2) The impact of the domestic violence on the adult victim;
- 3) The impact of the domestic violence on the children;
- 4) The protective factors in the child, adult victim, domestic violence perpetrator, and community; and
- 5) Additional risk factors such as mental illness, substance abuse and poverty.

Advisory Comments:

- The more thorough understanding of risk, the more realistic and effective the safety plan can be.
- An assessment of worker safety should always be conducted when working with families experiencing domestic violence.
- See appendix Section Three for sample assessment questions.

3. Safety Planning

When domestic violence is substantiated, safety planning with the adult victim of domestic violence is essential. Safety is directly impacted by how realistic and comprehensive a safety plan is.

The more thorough understanding of risk, the more realistic and effective the safety plan can be.

- Consider:
 - The batterers access to the family (living together, separated or getting ready to separate) and how the situation increases or decreases risk to the family;
 - What has kept family members safe in the past;
 - What tactics haven't worked in keeping family members safe in the past;
 - What the adult victims thinks will work in their current situation.
- Develop safety plans with the adult victim for children that are age and developmentally appropriate.
- Provide concrete support to the implementation of safety plans (assistance changing locks, getting protection orders, getting copies of documents, storing copies of documents, accessing community resources etc.).

It is recommended that local protocols incorporate the following components into service planning with the adult victim of domestic violence:

1. When domestic violence has been identified, a safety plan for the adult victim and children shall be developed and routinely monitored.
2. Incorporate victim safety considerations into safety planning protocol (e.g. not including safety plans in service records).
3. Identify who in the community can work with families to develop safety plans.
4. Consider how to increase capacity of providers in the community who are able to assist families in the development of safety plans.

4. Services

An understanding of the availability and effectiveness of existing services is key in the development and implementation of a community coordinated response to domestic violence. To that end, it is recommended the local protocol respond to the following questions:

1. What services are available for victims of domestic violence to address impact of domestic violence (shelter; emergency crisis support; support/education groups; family court intervention; law enforcement response etc.) and other risk factors she may be facing (substance abuse services, counseling, housing/financial assistance, childcare, etc.).
2. What services are available for perpetrators of domestic violence?
Effective services for perpetrators of domestic violence include immediate law enforcement response, state certified batterers programs, probation/parole accountability.

Services such as anger management and counseling can be risky interventions for perpetrators of domestic violence. If such services are the only options in the community, great care needs to be taken in the approach providers take. Victim safety, accountability for use of abusive tactics and awareness of how power and control tactics have shaped the relationship must all be acutely attended to by providers.

3. What services are available for children who have experienced domestic violence?
4. What are the service gaps in the community? How will the protocol team lead the community in beginning to reduce those gaps?
5. How will information on the above services be published, updated and disseminated in the community?

Advisory Comments:

Victims of domestic violence do not need treatment for being a victim of domestic violence. A careful discussion with victims about what services are available and what she/he thinks may make a difference is an important component of effective and safe intervention. Some victims benefit from education or support groups. The victim may benefit from treatment services aimed at mitigating other risk factors such as substance abuse, mental health issues, economic dependence, or history of domestic violence, abuse or neglect as a child.

For a list of statewide service providers:

<http://www1.dshs.wa.gov/ca/victimservices/dvicservbut1.asp>

IX. DISPUTE RESOLUTION PROCESS

It is recommended that local protocols specify the steps in a dispute resolution process among agencies and courts on three levels:

1. Disagreements on practice with a particular case (excluding judicial officers).
2. Patterns of practice pertaining to a particular class of cases.
3. Negotiating needed systems/ statewide improvements.

X. MEASURING OUTCOMES

It is recommended that local protocols identify outcomes they wish to measure related to this project. In particular, outcomes related to:

- 1) Increased coordination between agencies
 - a) Is there an increase in the number of case staffings for DV/child maltreatment cases?
 - b) Is there an increase in the number of cross training events occurring?
- 2) Increased accountability of perpetrators
 - a) Are law enforcement referrals being made when orders are violated?
 - b) Are perpetrators being referred to certified batterers intervention programs?
 - c) Are perpetrators being arrested for violence?
 - d) Is batterer behavior being documented in case records and court orders?
- 3) Increased safety of adult victims and children;
 - a) Is ongoing, routine screening occurring on every case?
 - b) Is a comprehensive assessment being conducted (using: identification of abusive tactics, impact on adult victim; impact on child; protective factors; and other confounding factors) when DV is indicated?
 - c) Are safety plans being developed with adult victims and children?
 - d) Are service plans being developed in conjunction with adult victims?
 - e) Are children remaining in the custody of their non-offending adult parent?
- 4) Court improvement procedures in place
- 5) Dispute resolution process in place

It is recommended that each protocol include an outcome measures chart (see appendix section 5) that identifies outcomes and how they will be measured.

APPENDIX

SECTION ONE	Sample Definitions
SECTION TWO	Routine Screening
SECTION THREE	Assessment
SECTION FOUR	Safety Planning/Services
SECTION FIVE	Measuring Outcomes
SECTION SIX	Sample Legislative Mandates
SECTION SEVEN	Source Materials

SECTION ONE: SAMPLE DEFINITIONS

Child Abuse or Neglect - “Abuse or neglect” shall mean the injury, sexual abuse, sexual exploitation, negligent treatment or maltreatment of a child, adult dependent, or developmentally disabled person by any person under circumstances which indicate that the child’s or adult’s health, welfare, and safety is harmed thereby. (RCW 26.44.020(12))

CPS Intake Risk Tagging - A tool used by CPS to assign a numerical rating to a referral, based upon the severity of abuse/neglect and related risk factors. A six point scale is used, with zero being no risk and five being high risk. CPS Response Time - Referrals accepted for investigation are rated “Emergent” or “Nonemergent”. The CPS investigation on emergent referrals must be initiated within 24 hours. The CPS investigation on non-emergent referrals must be initiated within 10 days.

Domestic Violence - A pattern of assaultive and coercive tactics used by one intimate partner against another to establish power and control in the relationship. The abusive conduct may include, but is not limited to, physical, sexual, and psychological assault as well as economic coercion.

Perpetrator - Individual using physical force or the threat of physical force to establish power and control in a relationship.

Adult Victim of Domestic Violence- Individual who is the victim of their intimate partner using physical force or the threat of physical force against them to establish power and control in the relationship.

Mandatory Reports - Any case where an agency or individual is required by law to report incidents of abuse or neglect to law enforcement or DSHS as identified in RCW 26.44.030, and 74.13.031 (3).

Revised Code of Washington (RCW) - The codification of current statutes as enacted and amended by the Washington State Legislature. An addendum of applicable RCW’s is attached to this protocol and will be updated annually.

Third Party Offender - The offender is not the victim’s parent, guardian, legal custodian or sibling, is not the caretaker, or is not acting in loco parentis.

SECTION TWO: ROUTINE SCREENING *Adopted from (Ganley & Schechter 1996)*

Routinely screening for domestic violence with any new case is essential. If domestic violence is undetected, intervention can increase risk for family members and helpers and interventions tend to be less effective. Staff from all disciplines should conduct routine screening. It should be ongoing, throughout the life of a case, as domestic violence can occur at any point in the life of a case.

Routine screening should be conducted with all referents and during initial interviews with families. If asking these questions separate family members by saying, “these are routine questions that I have to ask each of you separately”.

The purpose of routine screening is to 1) determine whether domestic violence is occurring and 2) if domestic violence is indicated, to determine who the perpetrator is and who the adult victim is. When routine screening, one should be able to answer the following question: “has there been the use of physical force, or the threat of physical force by one partner against the other in this relationship?”

To routine screen, referents and family members should be asked questions such as:

- Has anyone in the family been hurt or assaulted?
- Has anyone made threats to hurt or kill another family member or himself?
- Have weapons been used to threaten or harm anyone?
- Has anyone threatened to run off with the children?
- Has any family member stalked another family member or taken another family member hostage?
- Is there anyone in the home who has been injured, threatened or coerced by another family member?
- Have the police ever been called to the home to stop fighting among family members?
- Are there any weapons in the home?
- Has any member of the household been physically or sexually abused, threatened or coerced?
- Does either parent have criminal charges pending or prior criminal convictions or arrests for domestic violence related crimes?
- Is there any form of protection or restraining order in effect?

If domestic violence is indicated then:

- Determine who the perpetrator of the domestic violence is (who is using physical force, or the threat of physical force to establish power and control in the relationship)
- Make note of any mention of domestic violence in a visible place in the case record so subsequent workers will always know it is an issue
- Conduct an assessment of the risk posed by domestic violence to the child

SECTION THREE: ASSESSMENT

If domestic violence is indicated in referrals or initial interviews with family members, then careful, separate assessments of the safety should be conducted with adult victim, perpetrator and children. General considerations when assessing domestic violence are:

1. Staff should always pay attention to worker safety when working with families experiencing domestic violence.
2. When domestic violence is indicated, a worker should always work with the victim and children to develop a safety plan to address immediate safety needs of the family.
3. In gathering information about domestic violence, the worker should discuss with the victim the safety of a law enforcement referral if appropriate.
4. Share with family members the limitations and regulations related to their confidentiality rights.
5. Building rapport with a victim of domestic violence by focusing on safety concerns and demonstrating an understanding of the dynamics of domestic violence may help the victim in disclosing difficult information about the domestic violence.
6. Do not confront the domestic violence perpetrator. Interview the perpetrator in a way that encourages him to disclose his own abusive behavior. Do not try to force disclosure to confirm domestic violence.

General Assessment Questions:

- All families disagree and have conflicts; I am interested in how your family resolves conflict. I am interested in how you and your partner communicate when upset.
- What happens when you or your partner disagrees and your partner wants to get his/her way?
- Have you ever been hurt or injured in an argument? Has your partner ever used physical force against you or anyone else or broken or destroyed property during an argument? Have you ever felt threatened or intimidated by your partner? How?
- If your partner uses physical force against a person or property, tell me about one time that happened. Tell me about the worst or most violent episode. What was the most recent episode? Are you afraid of being harmed or injured?
- Have you ever used physical force against your partner? If so, tell me about the worst episode. What was the most recent episode? Is your partner afraid of you?
- Have the children ever been hurt or injured in any of these episodes? Have the children been present? Are the children afraid of your partner? Afraid of you?
- How frequently do the violent episodes occur? Have there been any changes in the frequency or severity of the abuse in the last month or the last year? Is any of the abuse (physical, sexual or psychological) getting worse or happening more often? Have the police or any other agency been involved?

Assessment of risk: Staff should assess the specific danger posed to child by the domestic violence by gathering information about and evaluating the following domains:

1. The first domain to gather information about in order to determine the risk posed by domestic violence is the power and control tactics the perpetrator has used. Below are sample interview questions to assess the perpetrators pattern of assaultive and coercive behaviors.

For each question listed below, if the adult victim or perpetrator answers yes, encourage a description of exactly what happened. You don't have to ask every question.

Has your partner:

- | | |
|-------------------|---|
| Physical Assaults | <ul style="list-style-type: none">➤ Used physical force against you?➤ Pushed, shoved, grabbed, shaken you?➤ Restrained you, blocked your way, pinned you down?➤ Choked you? Used weapons against you?➤ Hit you? Open hand? Closed hand? Struck you with an object? |
| Sexual Assaults | <ul style="list-style-type: none">➤ Pressured you for sex when you did not want it?➤ Manipulated or coerced you into sex at a time or in a way that you did not want➤ Injured you sexually; forced you to have unsafe sex; prevented you from using birth control?➤ Hurt you during pregnancy? |
| Emotional Abuse | <ul style="list-style-type: none">➤ Threatened violence against you, the children, others or self?➤ Engaged in reckless behavior (eg: driven too fast)➤ Attacked property or pets, stalked, harassed, or intimidated you in any other way?➤ Humiliated you?➤ Prevented you from seeing friends or family members?➤ Acted jealous; listened in on your phone calls? |
| Use of Children | <ul style="list-style-type: none">➤ Threatened or used violence against the children?➤ Interfered with your care of the children?➤ Made the children watch or participate in your being abused?➤ Made the children spy on you?➤ Threatened to report you to child protective services? |
| Economic Coercion | <ul style="list-style-type: none">➤ Who makes the financial decisions in your household? How are finances handled?➤ Has your partner tried to control you through money; taken your money; prevented you from attending work? |

When gathering information about the assaultive and coercive tactics, keep in mind the following factors that may increase the danger to the victim, children and to you. Have there been:

- Domestic violence related injuries to an adult, child or other family members?
- Severe or frequent domestic violence assaults or escalation of severity and frequency?
- Display or use of weapons during an assault?
- Threats made by perpetrator to seriously harm self or others?
- Stalking of adult victim or children?
- Menacing conduct of perpetrator and risk to child of being assaulted or snatched?
- Substance abuse problem in the family?
- Adult victim unable to care for the child due to the trauma of a recent assault or series of incidents?

2. The second domain to gather information about in order to assess risk posed by the domestic violence is related to the impact of the domestic violence on the adult victim.

Ask questions that will help determine:

- What kinds of injuries or health problems the adult victim has due to the intimate relationship?
 - Loss of appetite or excessive eating? Sleep disturbances? Increased use of alcohol or drugs? Headaches? Pains?
 - Increased illnesses or medical problems?
- What kinds of psychological or emotional problems is the adult victim having?
 - Difficulties concentrating, depression anxiety, fears, feelings of being numb, nightmares? Is anyone taking medications for these problems?
 - Have there been thoughts about hurting oneself or ones partner?
 - Has there been difficulty caring for the children?
- In what ways does your partner control you?
 - Do you have to get your partners permission for any of the following:
 - What you wear; your daily schedule; who you see; where you work; how you discipline your children?
 - What would happen if you did something your partner opposed? What would happen if another social service agency wanted you to do something he opposed?

3. The third domain to gather information about in order to assess risk posed by the domestic violence is related to is the impact of the domestic violence on the children. Interview of the children should focus on three areas:

The child's account of what they saw and how they understood the violence

- What kinds of things do mom and dad (or whatever the constellation of the relationship is) (grown ups) fight about
- What happens when they fight?
- Do they yell at each other?
- Do they hit each other?
- How does the hitting usually start?
- What do you do when this is going on?
- What do you think about when this is happening?
- Do you ever get hit or hurt when the fighting is happening?

The impact of witnessing the violence

- Do you find that you are thinking about the grown ups fighting a lot?
- When do you think about it?
- What do you think about?
- Do these thoughts ever come to you when you are in school or playing?
- Do you ever have trouble sleeping at night? Why? Do you have nightmares?
- Why do you think grown ups fight so much?
- What would you like them to do to make it better?

Three: The child's worries about safety

- What do you do when grown ups are fighting? (Stay in room, go to older sibling, leave/hide, ask parents to stop, phone someone, run out, etc.).
- When grown ups are fighting, what do you worry about the most?
- Have you talked with any other grown-ups about this fighting?
- In an emergency, whom would you call? What would you say?

Generally, to assess the account and impact of domestic violence on children, find out about the following:

- Are there injuries or health impacts on the children?
- Are there psychological or emotional impacts?
- Behavioral problems?
- Social problems?
- Is the parenting of caregivers impacted by the domestic violence?

4. The fourth domain to gather information about in order to assess risk posed by the domestic violence is related to the protective factors in the child, adult victim, domestic violence perpetrator, and community.

Gather information about the following from all sources possible:

- Victim resources include factors such as the victims:
 - Resistance to the perpetrators or communities victim-blaming
 - Belief in herself and/or children
 - Willingness to seek help
 - Use of available money, time and material goods
 - Work skills
 - Parenting skills
 - Ability to plan for children's safety
 - Knowledge of the abuser and the situation
 - Health and physical strength
 - Use of safety strategies for herself and the children
 - Children's resources include such factors as the children's
 - Age and developmental stage
 - Positive relationship with adult victim, siblings other family members and neighbors
 - Actions during violence
 - Help seeking behavior
 - Instructions from the adult victim or perpetrator about what to do
 - Ability to carry out safety plans
 - Community resources for victim safety and perpetrator accountability
 - Victim advocacy/support services
 - Effective criminal justice response to domestic violence
 - Effective and safe child welfare response
 - Safe housing
 - Effective intervention programs for the perpetrator
 - Accessible substance abuse treatment programs
5. The fifth domain to gather information about in order to assess risk posed by the domestic violence is related to the additional risk factors the family may be facing, such as drug/alcohol abuse, mental health issues, immigration status, history of abuse or neglect, poverty etc.(anything that marginalizes the family further).
 - Are either parent using alcohol or other drugs?
 - Does either parent have a history of mental health issues (keeping in mind, domestic violence can have a significant impact on the victim's mental health and lead to depression and anxiety)?
 - Are the basic needs of the family being met (food, housing, clothing, utilities etc.)?

SECTION FOUR: SAFETY PLANNING/SERVICES

When preparing a safety plan to leave a domestic violence situation, consider the following:

- What the victim has tried before, and how her partner responded
- What the victim feels she needs in order to be safe
- What concerns the victim may have about children's safety
- Who in the victims support system can help
- Developing a safety plan with/for the children
- How can the victim access emergency services
- Keeping important phone numbers accessible
- Develop a code word or system with children or neighbors
- Keeping copies of important documents or keys in a safe place outside the home

When preparing a safety plan when relationship is over, consider the following:

- Changing locks, installing security system or outdoor lighting system
- Inform friends, neighbors and family members that perpetrator is no longer living in the home
- Make sure child care providers know who is allowed to pick children up
- Obtain a protective order from _____
- Make a plan to contact someone for support, a friend, family member or support group

For samples of safety plans, check:

<http://www.ncvc.org/ncvc/main.aspx?dbName=DocumentViewer&DocumentID=32452>

<http://www.domesticviolence.org/plan.html>

<http://www.clarkprosecutor.org/html/domviol/plan.htm>

For a list of statewide services:

<http://www1.dshs.wa.gov/ca/victimservices/dvvicsservbut1.asp>

SECTION FIVE: MEASURING OUTCOMES (sample chart)

Increased coordination between agencies	<ul style="list-style-type: none"> - Increased number of case staffings occurring? - Increased number of cross training events occurring?
Increased accountability of perpetrators	<ul style="list-style-type: none"> - Are law enforcement referrals being made when orders are violated? - Are perpetrators being referred to certified batterers intervention programs? - Are perpetrators being arrested for violence? - Is batterer behavior being documented in case records and court orders?
Increased safety of adult victims and children	<ul style="list-style-type: none"> - Is ongoing, routine screening occurring on every case? - Is a comprehensive assessment being conducted (using: identification of abusive tactics, impact on adult victim; impact on child; protective factors; and other confounding factors) when DV is indicated? - Are safety plans being developed with adult victims and children? - Are service plans being developed in conjunction with adult victims? - Are children remaining in the custody of their non-offending adult parent?
Increased court improvement	Court improvement procedures in place
Dispute resolution process established	Dispute resolution process in place

SECTION SIX: SAMPLE LEGISLATIVE MANDATES

Chapter 70.123 RCW, Shelters for Victims of Domestic Violence

<http://www.leg.wa.gov/rcw/index.cfm?fuseaction=chapterdigest&chapter=70.123>

Chapter 26.44 RCW, Abuse of Children:

<http://www.leg.wa.gov/rcw/index.cfm?fuseaction=chapter&chapter=26.44&RequestTimeout=500>

RCW 74.04.060, Records, confidential -- Exceptions – Penalty

<http://www.leg.wa.gov/RCW/index.cfm?section=74.04.060&fuseaction=section>

SECTION SEVEN: SOURCE MATERIALS

The following materials were reviewed to inform the development of this project:

Artemis Center for Alternatives to Domestic Violence, *Domestic Violence Protocol: A guide for Child Protective Services Workers and Domestic Violence Agencies*, Dayton OH, (1996, rev 2001).

Department of Social Services, Children's Services Bureau, *Domestic Violence Protocol* (October, 1996).

Edmund S. Muskie School of Public Service; Child Protective Services/Domestic Violence Initiative, *Domestic Violence Protocol* (June 1998).

Ganley, A., and Schechter, S., *Domestic Violence: A National Curriculum for Child Protective Services* (1996).

King County Special Assault Network Agreement, *King County Special Assault Network Agreement*, (March, 2003).

Massachusetts Department of Social Services, *Domestic Violence Protocol*.

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ATTACHMENT 2

PROMISING JUDICIAL PRACTICES IN DEPENDENCY AND DOMESTIC VIOLENCE CASES

Recommended practices during child dependency court hearings (shelter care, probable cause, disposition, and review) when domestic violence may be present.

1. Identify whether or not domestic violence is an issue in each case.
2. Within the resources of your court, establish a one judge-one family rule.
3. Provide competent and trained public defense counsel.
4. Recognize the tribe as a key partner in Indian Child Welfare Act cases.
5. Encourage cultural awareness among court personnel and culturally appropriate access throughout the dependency process.
6. Create a secure/safe environment in the court.
7. Establish court procedures that increase the likelihood that all relevant information is before the court in timely manner.
(Enforce statutory deadlines for filing reports to the court. Continue the matter if the caseworker assigned to the case is not in court. Continue hearings if appropriate domestic violence screening and /or assessment information is not included in the reports.)
8. When domestic violence is identified in a dependency case, evaluate/assess the specific risk posed by the domestic violence to the child and the adult victim.
9. Determine if reasonable efforts have been made in both assessments and services that increase the safety of the child and adult victim and that hold the domestic violence perpetrator accountable.
10. Create court orders in dependency cases that increase safety of both adult victim and child and that hold the domestic violence perpetrator accountable.
11. Consider setting 60 or 90-day reviews in certain cases rather than the statutory six-month review process.
12. Encourage cross training on domestic violence for all dependency court professionals.
13. Increase collaboration with all dependency court professionals, community based resources, and domestic violence advocates.

List compiled by the faculty for the *Promising Judicial Practices in Dependency and Domestic Violence Cases* training. See *Chapter 5: Courts, Effective Intervention in Domestic Violence and Child Maltreatment Cases* in GUIDELINES FOR POLICY AND PRACTICE, RECOMMENDATIONS FROM THE NATIONAL COUNCIL OF JUVENILE AND FAMILY COURT JUDGES, (*The Greenbook*) <http://www.ncjfcj.org/>, 1-775-784-6012.

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- ¹ The *Coordinated Response to Child Maltreatment and Domestic Violence Guidelines* is posted at <http://www.metrokc.gov/kcsc>, and the document is entitled DV response guidelines.
- ² S. Catalano, Ph.D., *Intimate Partner Violence in the United States*, Bureau of Justice Statistics, <http://www.ojp.usdoj.gov/bjs/intimate/ipv.htm> (December 2006).
- ³ H. Lien Bragg, *Child Protection in Families Experiencing Domestic Violence*, Child Abuse and Neglect User Manual Series, U.S. Department of Health and Human Services (2003). To obtain a copy of this manual, contact 800-393-3366 or order on-line at the Child Welfare Information Gateway, <http://www.childwelfare.gov/pubs/usermanual.cfm>.
- ⁴ English, D.J., Edleson, J.L. & Herrick, M.E., Domestic violence in one state's child protective caseload: A study of differential case dispositions and outcomes. *Children and Youth Services Review*, 27, 1183-1201. (November 2005).
- ⁵ Summers, A., *Children's Exposure to Domestic Violence: A Guide to Research and Resources*, The National Council of Juvenile and Family Court Judge's Permanency Planning for Children Department (PPCD), in collaboration with the Office of Juvenile Justice and Delinquency Prevention's (OJJDP) Safe Start Demonstration Project, (2006) See <http://www.ncjfcj.org/content/view/924/357/> for information on ordering the publication. See <http://www.safestartcenter.org/pdf/childresexpostoviolence.pdf> to download a copy.
- ⁶ D. J. English, D. B. Marshall, and A .J. Stewart, "Effects of family violence on child behavior and health during early childhood," *Journal of Family Violence*, 18(1), special Issue: LONGSCAN and family violence, 43-57 (2003).
- ⁷ K. Starr, M. Hobart and J. Fawcett, "If I had One More Day," *Washington State Domestic Violence Fatality Review 2006*, Washington State Coalition Against Domestic Violence, www.wscadv.org; <http://www.wscadv.org/projects/FR/index.htm>.
- ⁸ See S. Hill "Through the Eyes of the Infant," in *Child Neglect and Infant Mental Health*, program materials from the Superior Court Judges' Association 2007 Spring Conference at <http://inside.courts.wa.gov/index.cfm?fa=controller.showBceConferences>.
- ⁹ Dore and Weiss, "Washington Rejects "Friendly Parent" Presumption in Child Custody Cases," *Washington State Bar News* (August 2001).
- ¹⁰ Recommendation No. 57," *Effective Intervention in Domestic Violence & Child Maltreatment Cases*, (National Council of Juvenile & Family Court Judges, 1999).