

Helping Children and Families Affected by Domestic Violence

CHILD ADVOCATES OF SILICON VALLEY

DECEMBER 4, 2018, 6-8PM

JUDGE L. MICHAEL CLARK, SANTA CLARA COUNTY SUPERIOR COURT

TOPICS

1. Quick Review of DV
2. Restraining orders are an important safety tool
3. Services for DV victims
4. Services for DV offenders
5. Services for children exposed to DV
6. What CASAs can do to help

QUICK REVIEW – Legislative Findings

“... Domestic violence has long-term effects that are disastrous for social policy and threatens the stability of the family and negatively impacts all family members, especially children, who learn that violence is an acceptable way to cope with stress or problems. Boys who grow up seeing their mothers beaten are more likely to become batterers themselves; girls who grow up in the same circumstances are more likely to become abused women.”

Legislative Findings for Penal Code section 1203.097, Stats. 1995, Ch. 641, SB 169

“The Legislature further finds and declares that children have the right to be safe and free from abuse, and that the perpetration of child abuse or domestic violence in a household where a child resides is detrimental to the health, safety, and welfare of the child.”

Family Code section 3020, subd. (a). Legislative Finding for Amendment to Family Code section 3020, Stats. 2018, Chapter 941, AB 2044.

“Domestic violence is a pervasive public safety and public health problem that affects people of all income levels, cultures, religions, ages, ethnic backgrounds, sexual orientations, and neighborhoods.”

“Domestic violence is not limited to actual and threatened physical acts of violence, but also includes sexual abuse, stalking, psychological and emotional abuse, financial control, property control, and other behaviors by the abuser that are designed to exert coercive control and power over the victim.”

“There is a positive correlation between domestic violence and child abuse, and children, even when they are not physically assaulted, suffer deep and lasting emotional, health, and behavioral effects from exposure to domestic violence.”

Legislative Findings for Amendments to Family Code section 6203 et seq, Stats. 2014, Ch. 635, AB 2089.

QUICK REVIEW – Basic Concepts

- ❑ Many of our dependent children have been exposed to both child abuse or neglect AND domestic violence
- ❑ There are different types of domestic violence: coercive/controlling/battering; defensive; situational; pathological.
- ❑ The type of domestic violence determines what orders and what treatment are needed.

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- ❑ Domestic violence cases are heard in the following courts: criminal court, family court, juvenile dependency court, juvenile justice court, and probate court.
 - ❑ Appearances can be deceiving: Some batterers make a very good first impression (charming), while some victims make a very poor first impression (hostile and disorganized)

Restraining Orders: An Important Tool for Protection

- What is a restraining order?
 - An order which restricts or prohibits one person's contact with another person
- Does a piece of paper actually make a difference?
 - YES, most of the time

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- What does a restraining order look like?
 - **See copies of CPO, JRO, DVPO**
 - Who can a restraining order protect?
 - Victim
 - Children
 - Other members of household

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- How long does a restraining order last?
 - Emergency protective order (EPRO) = 5-7 days FC 6256
 - Temporary restraining order (TRO)= 21 days
 - Juvenile (JRO) = 3 years – WIC 213.5
 - Family (DVPO) = 5 years – FC 6345
 - Criminal (CPO) = 10 years – PC 136.2

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- In general, what must a DV victim do to obtain a civil restraining order?
 - Go to court and file an application
 - Go to a DV agency and ask them to file the application
 - In juvenile dependency court the attorneys are responsible for preparing and filing the application

What are the different types of restraining orders?

- Juvenile restraining order
- Family domestic violence restraining order
- Criminal protective order
- Elder abuse restraining order
- Civil harassment restraining order
- Workplace violence restraining order
- School violence restraining order
- Gun violence restraining order

A juvenile restraining order often provides the most protection since there is social worker who can assist both the victim, offender and children, and can help with modification.

What Services Are Available to VICTIMS?

- See handout on available services
- Domestic Violence Support Organizations
 - Crisis counseling
 - Safety planning
 - Restraining order assistance
 - Temporary shelter or housing
 - Supportive services: food, clothing, employment

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- Restraining Order Self-Help Center at FJCC, 201 N. 1st Street, San Jose
 - Family Justice Centers
 - Mental Health Services
 - Drug Treatment Services

What Services Are Available to OFFENDERS?

- The primary service available is the **mandatory batterer intervention program (BIP)**.
- Since 2003 Penal Code § 1203.097 requires every convicted batterer granted probation to complete a 52-week batterer's program.
- In some cases the court will permit the defendant to complete a 16-week "conflict and accountability program" in lieu of the one-year program.

“Anger management” programs are generally NOT effective in preventing domestic violence, since many batterers are quite skilled at managing and focusing their anger on the victim.

Do BIPs Work?

DR. JEFF EDLESON 2012 – UC Berkeley

Across studies, group BIPs have a modest but positive impact on ending violence.

Group BIPs help the majority of men end their physical violence over a period of time.

It is not yet clear what components of group BIPs help create these changes.

DR. EDWARD GONDOLF 2004 -

The vast majority of men referred to batterer counseling appear to stop their assaultive behavior.

The length of the program does not seem to matter so long as it is more than 3 months.

New: AB 372: Batter Intervention Programs

- Adds new Penal Code § 1203.99
- Permits six pilot counties (Napa, San Luis Obispo, Santa Barbara, Santa Clara, Santa Cruz and Yolo) to offer alternative BIP's for persons convicted of domestic violence.
- Requires pilot counties to develop a risk assessment tool and design evidence-based programs that offer alternatives to the current mandatory 52 week BIP.

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- The Santa Clara County Probation Department is taking the lead on AB 372.
 - Probation has convened an interdisciplinary working group that meets monthly.
 - Probation is collaborating with the other 5 counties.
 - Probation is currently assessing risk assessment tools and promising practices across the country.

Other Services for the Offender

- Mental health counseling
 - Note: Many DV offenders were exposed to DV as children
- Substance abuse treatment
- Court review hearings to address accountability
- Reentry resource center
- Emerging concept: support for offender can enhance victim safety!

What About Visitation?

- Question: Can the DV offender still VISIT with his/her children after the court issues a restraining order?
- Answer: It depends on whether it is in the child's best interest.

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- Options available to court:
 - No contact between offender and child pending further order of court
 - Professional supervised visits
 - Non-Professional supervised visits
 - Unsupervised visits

What Services Are Available for CHILDREN?

- Individual counseling (preferably TF-CBT)
- Family counseling with adult victim
 - But no family counseling with offender until offender completes treatment
- Therapeutically-supervised visits with offender
- Professionally supervised visits with offender

What can CASAs do to help?

- Begin educating yourself about domestic violence
- Review case file to determine whether child was exposed to DV
- Even if file reflects no exposure to DV, be attentive to clues that it was overlooked, and then alert the child's social worker and child's attorney.

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- Be familiar with typical child trauma responses to DV
 - **See handout**
 - **Traumatized Children: A Quick Guide for Caregivers, Clark & Baron**

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- If child is not in counseling to address trauma from exposure to DV, inquire why.
 - If child is in counseling to address trauma, inquire about counselor's training and experience in treating children exposed to DV

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- Ask the child's teacher and foster parent about their understanding of the child's trauma history and therapeutic needs

Child Resilience Is Fostered By:

- A strong, positive relationship with a primary caregiver who acts to ensure the safety and protection of the child
- Positive and supportive school environment
- Other positive adult relationships
- Appropriate counseling and treatment

For More Reading About DV

National Child Traumatic Stress Network (NCTSN)

Futures Without Violence

Violence Policy Center

National Council of Juvenile and Family Court Judges

Judicial Council of California

Effective Intervention in Domestic Violence and Child Maltreatment Cases: Guidelines for Policy and Practice (1990) – commonly known as the “Green Book”

THANK YOU FOR BEING A CHILD ADVOCATE!

Judge L. Michael Clark

Santa Clara County Superior Court

DV – CASA Training – Dec 2018