

# Domestic Violence: What you can do for your clients

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## **Studies show that domestic violence negatively impacts many of society's worst problems**

- Homicide
- Suicide
- Violent Assault
- Juvenile Delinquency
- Child Abuse
- Child Abduction
- Child Runaways
- Child Suicide
- Substance Abuse
- Mental Illness
- Homelessness
- Workplace Violence
- Jail Overcrowding
- Rape
- Kidnapping

# Safety First: Identify Risks & Safety Plan

- Consult with Client – the Victim is the best judge of his/her safety
- Refer to community advocates, shelter, police
- Review & provide a Safety Plan (sample from [ABA.net.org](http://ABA.net.org))
- Consider available legal options
- Identify safety risk to others (children, care providers, pets)

# Lethality & Risk Factors

- Leaving/Separation – even evidence of planning to leave or gain independence substantially increases safety risk.
- Pet abuse
- Damage to property (especially sentimental items)
- Cross Petitions
- Client has a new partner or friend of the opposite sex
- Pregnancy
- Prior Domestic Violence charge or previous serious injury
- Strangulation
- Stalking behavior
- Substance Abuse
- Threats to kill or threats of suicide
- Gun involved in incident or recent purchase of gun
- Perpetrator mental illness
- Violated a protection order

# Safety Means...

- Physical Safety
- Safe Housing
- Custody and/or protection of children
- Financial independence
- Secure immigration status
- Privacy/Confidentiality

Safety:

First...

Last...

Always.

Consult and advise your client at every step:

“is it safe to do ‘X’ right now?”

(File for a protection order, file for divorce, move out of a shelter, participate in a regularly scheduled group)

# How you can help in a DV case:

- Mitigate conflict between the parties
- Prioritize family safety
- Explore all legal options with Client
- Support Client independence and self-sufficiency
- Protect children from involvement in litigation
- Encourage counseling for Client and children
- Protection is an outcome not a strategy
- Educate client regarding rights and responsibilities covered by protection orders

# Legal Remedies

## CRIMINAL

- Domestic Violence Temporary Protection Order (DVTPO)
  - Victim is family or household member
- Criminal Protection Order (CRPO)
  - Non-family & household members

## CIVIL

- Domestic Violence Civil Protection Order, referred to as Civil Protection Order (CPO)
- Stalking and/or Sexually Oriented Offense Protection Order
  - Non-family or household members



# OHIO'S 4 TYPES OF PROTECTION ORDERS

	CIVIL	CRIMINAL
Family & Household Members	CPO	DVTPO
Non-family & HH members (fka "stalking")	SSOPO	CRPO

**DVTPO:** Domestic Violence Temporary Protection Order

R.C. 2919.26, enforced by R.C. 2919.27

**CRPO:** Criminal Protection Order

R.C. 2903.213, enforced by R.C. 2919.27

- Police or Victim request via motion or Court can issue
- Eligible offenses
- Remedies
- Duration
- Enforcement

# Regarding Criminal Orders

- Victim may not waive or modify
- Victim cannot violate her own order i.e. only Defendant subject to arrest if parties are found together
- No costs assessed to the victim
- Legislative mandate to stop the abuse, NOT to terminate relationships.

# CIVIL PROTECTION ORDERS (CPO & SSOOPO)

**CPO** → R.C. 3113.31, enforced by R.C. 2919.27

**SSOOPO** → R.C. 2903.214, enforced by 2919.27

- No criminal charges are necessary.
- File petition at:
  - Dom. Rel. Ct., 800 Broadway, 2nd Floor (CPO)
  - Common Pleas, 1000 Main St Rm 315 (SSOOPO)
- Immediate, one-sided hearing; leave with a temporary order or hearing date for full-hearing; service on defendant same day as Ex Parte hearing.
- “Full hearing” held in 10 days – abuser tells his/her side.
- No “mutual orders” without a separate filing.

# CPO:

Domestic Violence Civil Protection Order or Consent Agreement

- Who can be covered
- Remedies available
- Duration
- Enforcement
- Renewability
- Consent vs. Full Hearing

# R.C. 3113.31

- (1) “Domestic violence” means the occurrence of one or more of the following acts against a family or household member:
  - (a) Attempting to cause or recklessly causing bodily injury;
  - (a) Placing another person by the threat of force in fear of imminent serious physical harm or committing a violation of section 2903.211 [2903.21.1] or 2911.211 (...) of the Revised Code;
  - (c) Committing any act with respect to a child that would result in the child being an abused child, as defined in section 2151.

***Proof by a preponderance of the evidence***

# CPO: Important Considerations

- Victim may not be restrained by her own CPO; shall not be arrested for “violating her own order”
- May pursue CPO while Criminal TPO in place, but issuance of CPO terminates the TPO
- CPO parenting & support orders expire with CPO
- Juvenile Court & Domestic Relations Court (divorce) custody & support orders may modify and supersede CPO terms

# SSOOPO:

Civil Stalking and/or Sexually Oriented Offense Protection Order

- Who can be covered
- Remedies available
- Duration
- Enforcement



# R.C. 2903.214

## Stalking

- *“No person by engaging in a pattern of conduct shall knowingly cause another person to believe that the offender will cause physical harm to the other person or cause mental distress to the other person.” R.C. 2903.211(A)*

## Sexually Oriented Offense

- Any victim of a sexually oriented offense (R.C. 2950.01), pattern of conduct not required

# Read the BOLD print!

- CPO & SSOOPO cannot be waived or nullified by consent or agreement of the parties
- Violation is violation even at invitation of victim
- **ONLY** the issuing court can vacate or modify an existing order, hearing preferred

# Temporary Restraining Orders

- Also issued through the Domestic Relations Court in divorce & dissolution cases  
(Civil Rule 75, **NO CRIMINAL STATUTE!**)
- Purpose
- Remedies
- Duration
- Enforcement
- Prohibits abuse, but NOT a “protection order!”  
No arrest powers! Make sure your client knows what she has (and what it can/can’t do.)

# Practice Tips

- Victim has the right to be accompanied by a victim advocate throughout litigation
- Respondent will be given the opportunity to request a continuance for counsel (If victim is not present at any point, case will be dismissed)
- Present evidence of abuse and fear including but not limited to:  
Victim testimony, witnesses, police reports, medical reports, psychologist, 241-KIDS investigator
- Present evidence of financial need (bills, income and practice of the parties)
- No costs can be charged to the victim
- Case should be continued for service

# Prepare Your Client

- At a full-hearing, a pro se Respondent will have the opportunity to directly question the victim.
- Be mindful of your client's privacy, especially regarding sexually oriented offense allegations and harm to children.
- If an interpreter is required, notify the Court as soon as possible. This can hold up ex parte hearings.

# Beyond Paper

- Any protection order is only as good as the will to enforce it.
  - Keep copies everywhere (work, car, purse, home)
  - Call the police
  - File charges
  - File contempt
  - Inform neighbors, employer, school, daycare providers, trusted friends and family as part of safety plan
- Don't Judge – advise & support client
- Advocate for client & provide info. and tools in case this is not the right time.
- Just because you can, doesn't mean you should.

# Resources

- <http://www.abanet.org/domviol/docs/StandardsCommentary.pdf> (ABA Commission on DV: Standards of Practice for Lawyers Representing Victims of DV, SA & Stalking in CPO cases)
- <http://www.abanet.org/domviol/pubs.html> (ABA resources including screening tools, VAWA implications, and safety plans)
- <http://www.ohioattorneygeneral.gov/Services/Victims> (Services for Victims & Ohio Victims of Crime Compensation Program)

- [www.odvn.org](http://www.odvn.org) (Ohio Domestic Violence Network)
- [www.ywca.org](http://www.ywca.org) (YWCA Domestic Violence Hotline and Battered Women's Shelter (513) 872-9259, Toll Free (888) 872-9259)
- [www.womenhelpingwomen.org](http://www.womenhelpingwomen.org) (Women Helping Women 24-Hour Crisis Line (513) 381-5610, Business Line (513) 977-5541)
- [www.hcjfs.hamilton-co.org](http://www.hcjfs.hamilton-co.org) (Children's Services, 241-KIDS)