

# **DOMESTIC VIOLENCE JUDICIAL POLICY GUIDELINES**

## **I. GENERAL. COURTS, THE CRIMINAL JUSTICE SYSTEM AND THE ENTIRE LEGAL COMMUNITY MUST RESPOND TO DOMESTIC VIOLENCE AS SERIOUS CRIMINAL CONDUCT THAT PRESENTS UNIQUE PROBLEMS TO THE COURTS.**

- A. Judges should ensure that domestic violence cases are competently and efficiently managed by trained and knowledgeable court personnel.
- B. Judges should inform themselves on the dynamics of domestic violence and seek training on effective techniques to handle domestic violence cases fairly.
- C. Judges should inform themselves on available data on domestic violence and assist in the collection and analysis of additional data to provide the courts with a current and accurate picture of the effectiveness of the judicial system. Judges should make the collected data available to the community so that informed decisions can be made concerning needed resources.
- D. Judges should encourage the community to make adequate resources available to the courts and court-related agencies to handle the needs of both the perpetrators and victims in domestic violence cases.
- E. Judges should view domestic violence as a serious criminal matter and should not apply inappropriate remedies.

## **II CRIMINAL. THE CRIMINAL JUSTICE SYSTEM MUST RECOGNIZE THAT DOMESTIC VIOLENCE USUALLY INVOLVES CONTINUING CRIMINAL ACTS AGAINST THE VICTIM; THUS, AT EACH STAGE OF A CRIMINAL PROCEEDING, THE COURT MUST INCLUDE MEASURES THAT MAXIMIZE THE PROTECTION OF THE VICTIM, THE VICTIM'S DEPENDENTS AND OTHER PARTIES WHO ARE AT RISK.**

- A. Arrestment. At an alleged perpetrator's arrestment or other first appearance, the judicial officer should enter orders or conditions of bond, consistent with the current law on a criminal charge to maximize the protection of the victim.
- B. Pre-trial Diversions and Other Alternatives to Sentencing. Judges should not accept civil compromises, deferred prosecutions, reduced charges, dismissals,

diversions or alternate dispute resolution procedures except in extraordinary cases and where justice is served by those devices.

C. Information at Sentencing. At the time of sentencing or disposition, the judge should have sufficient information on the case to make a reasoned decision, including the following information, if available:

1. The facts of the case;
2. The offender's criminal history;
3. Information on the impact of the offense on the victim;
4. Input from the victim;
5. Information on any history of abusive behavior;
6. Any drug, alcohol and mental health evaluations;
7. Information about other persons living in the home, particularly children, who may be affected by the abuse.

D. Sentencing. Every sentence in a domestic violence case should:

1. Hold the perpetrator fully accountable for his or her behavior;
2. Include measures specifically designed to reduce future violence;
3. Provide for supervision and periodic monitoring of compliance.

E. Repeat Offenders. All repeat domestic violence offenses must result in substantial additional sanctions or penalties for the perpetrator.

**III. CIVIL. CIVIL REMEDIES IN DOMESTIC VIOLENCE CASES MUST BE VIEWED BY THE COURT AS BEING CONNECTED TO SERIOUS CRIMINAL CONDUCT AND INCLUDE MEASURES THAT MAXIMIZE THE PROTECTION OF THE VICTIM, THE VICTIM'S DEPENDENTS AND OTHER PARTIES WHO ARE AT RISK.**

A. When domestic violence has occurred or is threatened, *ex-parte* and extended orders of protection should be issued to provide for the safety and continued support and maintenance of the victim and the victim's dependents.

B. Judges should not issue mutual protective or restraining orders unless each side

has filed a petition and the judge determines by a preponderance of the evidence that facts alleged in the petitions support the issuance of each order.

- C. Judges should weigh and consider the violent conduct of a party when making a determination of custody and visitation rights
- D. Judges should be sensitive to any unequal power relationships or bargaining capabilities between the parties.
- E. Judges should not seek to use alternative dispute resolution procedures without making a determination that such procedures will not undermine the court's ability to hold the perpetrator fully accountable and responsible for his or her actions.
- F. Judges should not presume that joint custody is in the best interest of the children in instances where domestic violence is involved.

