

# Advancing Procedural Justice on Your Protection Order Docket

Procedural justice refers to the perceived fairness of court procedures and interpersonal interactions during the pendency of a case.

Research has shown that when litigants perceive the court process to be fair, they are more likely to comply with court orders and follow the law in the future, regardless of the outcome of their cases.<sup>1</sup> As a judicial officer, you are in a position of authority to advance procedural justice within your courtroom. The checklist below includes practical suggestions that will support the four key components of procedural justice<sup>2</sup>—1) understanding of legal language, court processes, and expectations; 2) respect; 3) the opportunity to be heard; and 4) neutrality—on your protection order docket.

## Courtroom Checklist

### ⇒ Setting up the courtroom to be accessible and predictable for participants:

- **Label seating** in the gallery; petitioners and respondents on **separate** sides
- Consider having **parties sit/stand as physically far apart as possible** to present their cases
- Include a **list of cases** outside of the courtroom
- Ensure that there is **correct signage** about where the calendar will be held
- **Stagger dismissal** of the parties from your courtroom to minimize potential for interaction
- Confirm that **security personnel and measures** suitable for potentially high-conflict dockets are in place during the docket, and at least 15 minutes before and after the docket
- Post a **“check-in” sign** where the parties are required to check in before the hearing

### ⇒ Setting clear expectations for participants:

- **Greet the participants** when you come out to the bench
- **Notify the gallery about what calendar** you are presiding over and let people know where they can go for more information if they are in the wrong place
- Review **courtroom rules** regarding conduct and proceedings
- Announce the **order in which the cases will be called**. Consider the following order:
  1. Cases in which there is **no proof of service**
  2. Cases in which only **one party is present** and the case will be dismissed or a default order entered
  3. Full hearings where **both parties are present** and ready to proceed, holding more sensitive cases (e.g. sexual assault and domestic violence) until the end of the calendar. Consider giving expedited consideration to cases where there is an interpreter or where an attorney is representing either party



- State **where the parties will sit/stand to present their cases** when their cases are called and label accordingly
- Notify the parties **where to wait while paperwork is completed.**
- Read **key elements of the relevant statutes aloud** (e.g. definitions, what must be proven by a preponderance)
- **Announce your policy on the application of the rules of evidence** (e.g. if the Court will not consider hearsay, such an announcement affords the parties the opportunity to request a continuance to bring in witnesses or documentation)
- In a **Sexual Assault Protection Order case**, consider **appointing counsel** for the petitioner where a respondent is represented<sup>3</sup> to level the playing field
- Inform the parties about **whether the Court reviewed the petition and subsequent filings**
- Announce any **time limits** that the Court will set for case presentation
- When recording a continuance/reissuance, **include detail about the reason why a continuance was granted** so judges presiding over future hearings know the case history
- Demonstrate active listening through **body language** and by **making eye contact** with the parties
- Explain your **rationale for asking questions** of the parties
- When possible, provide explanations using **plain language**

<sup>1</sup>E.g., Paternoster et al. 1997; Tyler and Huo 2002; Gottfredson et al. 2009, see also <http://www.courtinnovation.org/topic/procedural-justice>

<sup>2</sup>Rossman et al (2011)

<sup>3</sup>RCW 7.90.070

This project was supported by Grant No. 2015-FJ-AX-0002 awarded by the Office on Violence Against Women, U.S. Department of Justice. The opinions, findings, conclusions, and recommendations expressed in this publication/program/exhibition are those of the author(s) and do not necessarily reflect the views of the Department of Justice, Office on Violence Against Women.