

# CIVIL PROTECTION ORDERS:

*E2SHB 1320 Stakeholder Group Recommendations to  
Support Access and Safety*



Report to the Washington State Legislature

December 1, 2021

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*To the Washington State Legislature:*

*It is the honor of the Gender and Justice Commission's E2SHB 1320 stakeholder group to present the requested report and recommendations concerning jurisdiction, youth litigants, coercive control, and information sharing between Washington State and foreign courts in civil protection order hearings.*

*After approximately five months of collaborative discussion, surveys, research, and writing, we wish to acknowledge the fine work and commitment of this stakeholder group, and most especially, our topical leads: Judge Michelle Demmert, Timothy Fitzgerald, Elizabeth Hendren, Riddhi Mukhopadhyay, Judge Averil Rothrock, Judge Cindy Smith, and Judge Tanya Thorp.*

*The work was supported by staff from the Administrative Office of the Courts (AOC) and the Supreme Court's Gender and Justice Commission and Washington Tribal State Court Consortium.*

*Our report to the courts related to other best practices in civil protection order proceedings will be forthcoming in June 2022.*



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## I. Executive Summary

Access to justice was of paramount concern for the legislature when it passed E2SHB 1320 in 2021. Washington has been “a national leader in adopting legal protections to prevent and respond to abuse, violence, harassment, stalking, neglect, or other threatening behavior through its civil protection orders.”<sup>1</sup> But our legislature recognized that, in order for litigants to access these “essential tools,” the law needed to be simplified and streamlined for both petitioners and respondents.<sup>2</sup> E2SHB 1320 enacted many provisions furthering those goals, but work remained to be done. Therefore, two sections of the bill directed the Administrative Office of the Courts (AOC), through the Gender and Justice Commission, to convene stakeholders to make recommendations on further reforms.<sup>3</sup> In carrying out this directive, we viewed the relevant issues through an accessibility lense.

On the topic of **jurisdiction**, after considering legislative history, statewide surveys of court personnel and victim advocates/attorneys, and court data, the stakeholder group recommends that the general jurisdictional structure remain intact at this time. Improvement is needed around the process of transferring cases from courts of limited jurisdiction to superior courts, and the stakeholder group recommends standardizing the criteria for transfer and allowing direct filing in superior court for cases that would ultimately require a transfer, anyway. The group also recommends allocating funds for judicial officer and court staff training. Finally, the group identified additional areas for further stakeholder outreach and information-gathering, including municipal court jurisdiction, budgeting, and court resource allocation.

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<sup>1</sup> Chapter 215, Laws of 2021 at p. 2.

<sup>2</sup> *Id.* at p. 3.

<sup>3</sup> *Id.* at pp. 21-22, 33, 57-58.

Regarding **best practices for minors**, the stakeholder group appreciated that the minor-specific provisions in E2SHB 1320 recognize the developmental differences between youth and adults. There was consensus that initialing/sealing provisions would better protect the privacy of youth petitioners and respondents; however, additional input is recommended on this topic. We do not make specific recommendations related to venue, sanctions, appointment of guardians ad litem and attorneys, or education, as there was not consensus from the stakeholder group.

The stakeholder group, although not unanimous, recommends that **coercive control** be included as conduct that constitutes “domestic violence” in the civil definition in RCW 7.105.010(8)(a). Elements that might be included in such a definition are objective standards for recognizing covered conduct, as well as specific examples of tactics and abusive behaviors. Additional funding is also recommended to support development and delivery of evidence-based training on this topic.

With regard to **information sharing** about civil protection orders among Washington State courts and tribal, military, and other states’ courts, the stakeholder group identified two potential solutions: one involving entry of tribal court orders into the Washington State Judicial Information System (JIS), and the other allowing Washington State courts to obtain access to the National Crime Information Center (NCIC) databases. Details, as well as pros, cons, and additional information needed are included in this report. In the interim, additional data fields on the protection order form that ask petitioners to disclose tribal affiliation or any tribal court, military court, foreign state, or foreign country cases involving the parties or their minor children, would support increased access to this information for judicial officers. Other court-focused solutions, such as a suggested best practice and potential court rule for courts of limited jurisdiction are also discussed herein.

After an introductory section and acronym glossary, the report is organized by topical issue, in the following sequence:

1. Jurisdiction (pp. 10-35);
2. Best practices for minors (pp. 35-46);
3. Coercive control (46-65); and
4. Information sharing between state and tribal, military, and other states' courts (65-89).

Each topical section is clearly distinguished within this report, and the related recommendations are included at the end of each topic. A complete list of recommendations is also included at the end of the report, starting on p. 90.

## **II. Introduction**

In 2021, the Washington State Legislature passed E2SHB 1320 - Modernizing, harmonizing, and improving the efficacy and accessibility of laws concerning civil protection orders. Sections 12, 16, and 36 assign the Administrative Office of the Courts (AOC), through the Gender and Justice Commission, with convening stakeholders to make recommendations to both the legislature and the courts on a variety of protection order-related issues.<sup>4</sup> The directives related to this report are to consider and develop recommendations regarding:

- The jurisdictional division of authority and responsibility among superior courts and courts of limited jurisdiction for protection order proceedings, and the differing approaches to jurisdiction among the types of protection orders. The work shall assess whether jurisdiction should be harmonized, modified, or consolidated to further the stated intent of this act. The work shall consider the underlying rationale for the existing

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<sup>4</sup> Chapter 215, Laws of 2021.

jurisdictional division, assess whether the jurisdictional division creates barriers to access, gather data on usage and financial costs or savings, and weigh other relevant benefits and ramifications of modifying or consolidating jurisdiction.

**E2SHB 1320, Sec. 12.**

- Best practices for minor respondents and petitioners in civil protection order proceedings, including what sanctions should be provided for in law. **E2SHB 1320, Sec. 36(f).**
- Assess how the civil protection order law can more effectively address the type of abuse known as “coercive control” so that survivors<sup>5</sup> can seek earlier protective intervention before abuse further escalates. **E2SHB 1320, Sec. 36(g).**
- Best practices, including proposed training and necessary forms, in partnership with the Washington Tribal State Court Consortium to address how:
  - Washington state court judges of all levels can see the existence of, or parties to, tribal court, military, and other jurisdiction protection orders, in comity with similar state court orders;
  - Tribal courts can enter their protection orders into the judicial information system used by [state] courts to check for conflicting orders and history; and
  - State courts can query the National Crime Information Center to check for tribal, military, and other jurisdictions’ protection orders prior to issuing protection orders.

**E2SHB 1320, Sec. 36(e).**

A second report to the courts regarding other civil protection order issues and best practices is due by June 30, 2022.

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<sup>5</sup> Please note that the terms “victim” and “survivor” are used interchangeably throughout this report. We recognize the shortcomings of each.

### ***A. The Washington State Supreme Court Gender and Justice Commission***

The Gender and Justice Commission (hereafter “the Commission”) was established following the publication of *Gender and Justice in the Courts* in 1989, and its mission is to:

- Identify concerns and make recommendations regarding the equal treatment of all parties, attorneys, and court employees in the state courts, and
- Promote gender equality through researching, recommending, and supporting the implementation of best practices; providing educational programs that enhance equal treatment of all parties; and serving as a liaison between the courts and other organizations in working toward communities free of bias.

The Commission recently published *2021: How Gender and Race Affect Justice Now*,<sup>6</sup> a groundbreaking new study on how gender and race impact justice, and the intersection of gender and other identities and experiences (e.g., LGBTQ+, poverty).

The Commission was honored to be selected as the convener of stakeholders. The co-chairs of the Commission’s Domestic and Sexual Violence Committee, Judge Jacqueline Shea-Brown and Erin Moody, led the project. Several Gender and Justice Commissioners also participated in this work as topical leads or stakeholders. Recommendations made in this report are those of the stakeholder groups and do not reflect the official position of the Gender and Justice Commission or its chairs and members, except insofar as individual members may also have participated on the stakeholder groups.

### ***B. Washington Tribal State Court Consortium (TSCC)***

Founded in 2013, the Tribal State Court Consortium (TSCC) is a joint effort between state and tribal court judicial officers and other judicial branch members to expand

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<sup>6</sup> Available at <https://www.courts.wa.gov/?fa=home.sub&org=gjc&page=exploreStudy&layout=2&parent=study>.

communication and collaboration. The TSCC is focused on domestic and sexual violence issues, dependency cases involving Indian children, and the disproportionate number of Indian youth in the juvenile justice system. Enforcement of tribal court protection orders is a key concern of the TSCC.

### ***C. Washington State Women's Commission (WSWC)***

The Washington State Women's Commission (WSWC) was established in 2018 to gather data and make policy recommendations regarding issues pertaining to women in Washington, including matters of economic security and opportunity, safety, health, and intersectional equity. Its mission is to improve “the life of every woman by ensuring equitable opportunities and removing systemic barriers through engagement, advocacy, and public policy, while being inclusive of our diverse populations.”<sup>7</sup>

For this project, the WSWC hosted and facilitated eight listening sessions to hear directly from victim advocates, survivors, and other interested stakeholders from around the State of Washington.

### ***D. Project Structure***

Judge Jacqueline Shea-Brown and Erin Moody led the overall project on behalf of the Commission, with the deliverables divided by topic among three stakeholder groups:

1. **Research & Information Sharing Group** (Topical Leads: Judge Michelle Demmert, Chief Judge Cindy Smith, Judge Tanya Thorp)
  - In partnership with the Washington TSCC, develop best practices re: how state courts can see protection orders entered by tribal courts, military courts, and other jurisdictions, which are enforceable in state court

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<sup>7</sup> <https://wswc.wa.gov>.

Due to legislature: December 1, 2021

- Develop best practices in data collection and sharing to promote research and transparency, in consultation with research entities

Due to the courts: June 30, 2022

2. **Litigant Rights & Access Group** (Topical Leads: Riddhi Mukhopadhyay, Judge Averil Rothrock)

- Assess whether jurisdiction over civil protection orders should be harmonized, modified, or consolidated
- Identify best practices for minor litigants in civil protection order cases, including what sanctions should be available
- Assess how the civil protection order law can more effectively address coercive control

Due to legislature: December 1, 2021

- Propose standards for filing evidence in protection order proceedings to protect victim safety and privacy
- Make recommendations to improve access for unrepresented litigants
- Identify best practices where civil and criminal proceedings concern same alleged conduct

Due to the courts: June 30, 2022

3. **Technology Group** (Topical Leads: Tim Fitzgerald, Elizabeth Hendren)

- Develop standards for the courts regarding requirements for private vendors who provide services related to filing systems for protection orders and what data should be collected

- Develop standards for the courts regarding uses of technology to reduce administrative burdens in protection order proceedings

Due to courts: June 30, 2022

### ***E. Stakeholders***

We are extremely grateful to our stakeholders — who included superior, district, and municipal court judicial officers; tribal court judicial officers; court clerks; court administrators; victim advocates; attorneys; and academics — for contributing their time and expertise to this project. Please refer to Appendix A for a complete list of all stakeholders involved.

## **III. Acronym Glossary**

<b>AHO</b>	Antiharassment Order
<b>AOC</b>	Administrative Office of the Courts
<b>ARY</b>	At-Risk Youth
<b>BIPOC</b>	Black, Indigenous, (and) People of Color
<b>CEC</b>	Board for Judicial Administration’s Court Education Committee
<b>CHINS</b>	Child in Need of Services
<b>CJIS</b>	Criminal Justice Information Services
<b>CLJ</b>	Courts of limited jurisdiction (district & municipal courts)
<b>CMS</b>	Case Management System
<b>CR</b>	Court Rule
<b>CSA</b>	CJIS Systems Agency
<b>DOJ</b>	Department of Justice
<b>DV</b>	Domestic Violence
<b>DVPO</b>	Domestic Violence Protection order

<b>EDR</b>	Enterprise Data Repository
<b>ERPO</b>	Extreme Risk Protection Order
<b>GAL</b>	Guardian Ad Litem
<b>GR</b>	General Rule
<b>GJC</b>	Gender and Justice Commission
<b>JABS</b>	Judicial Access Browser
<b>JIS</b>	Judicial Information System
<b>LGBTQ+</b>	Lesbian, gay, bisexual, transgender, and queer or questioning. The + signifies gender identities and sexual orientations not covered, including pansexual, two-spirit, and intersex
<b>NCIC</b>	National Crime Information Center
<b>SAPO</b>	Sexual Assault Protection Order
<b>SPO</b>	Stalking Protection Order
<b>TAP</b>	Tribal Access Program
<b>TSCC</b>	Tribal State Court Consortium
<b>VAPO</b>	Vulnerable Adult Protection Order
<b>VAWA</b>	Violence Against Women Act
<b>WACIC</b>	Washington State Criminal Information Center
<b>WASPC</b>	Washington Association of Sheriffs and Police Chiefs
<b>WSCADV</b>	Washington State Coalition Against Domestic Violence
<b>WSP</b>	Washington State Patrol
<b>WSWC</b>	Washington State Women’s Commission

## IV. Jurisdictional Division of Authority Between the Courts

*Preliminary note:* The E2SHB 1320 stakeholder group recognizes that the terms, “jurisdiction,” “jurisdictional division of authority,” and “jurisdictional division,” as used in E2SHB 1320 Sec. 3 and Sec. 12, do not equate to the use of the term “jurisdiction” as provided in the Constitution of the State of Washington, specifically Article IV, section 6, which vests the district and superior courts with concurrent jurisdiction to hear cases in equity.<sup>8</sup> While the Washington Constitution uses the term “jurisdiction” to describe the fundamental power of courts to act, the legislature often uses that term to describe something different and more akin to “venue.”<sup>9</sup> Except where this report discusses the constitutional authority of municipal courts to hear cases in equity, it generally uses the term “jurisdiction” in the latter sense—that is, to refer to procedural requirements allocating protection order cases among the superior courts and courts of limited jurisdiction, rather than the fundamental constitutional authority of the district and superior courts power to decide certain matters.<sup>10</sup>

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Pursuant to E2SHB 1320 Sec. 12, the legislature noted “inconsistencies and differing approaches . . . [to] the jurisdictional division of authority and responsibility among superior courts and courts of limited jurisdiction for protection order proceedings.” It stated its intent to retain these divisions pending further review:

**Sec. 3. REVIEW OF EXISTING COURT JURISDICTION.** The legislature finds that there are inconsistencies and differing approaches within existing provisions governing the jurisdictional division of authority and responsibility among superior courts and courts of limited jurisdiction for protection order proceedings addressed by this act. This act retains those jurisdictional differences only as an interim measure, and creates an approach in section 12 of this act to review the existing jurisdictional division, assess the

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<sup>8</sup> See *Ledgerwood v. Lansdowne*, 120 Wn. App. 414, 419-21 (2004).

<sup>9</sup> *ZDI Gaming Inc., v. Gambling Comm'n*, 173 Wn.2d 608, 616-18 (2012).

<sup>10</sup> See *ZDI*, 173 Wn.2d at 616-18; *Ledgerwood*, 120 Wn. App. at 421.

benefits and ramifications of modifying or consolidating jurisdiction for protection orders consistent with the goals of this act of improving efficacy and accessibility, and propose to the legislature provisions to address jurisdiction.

The legislature tasked the Gender and Justice Commission with convening a stakeholder group to consider and develop recommendations concerning:

the jurisdictional division of authority and responsibility among superior courts and courts of limited jurisdiction for protection order proceedings, and the differing approaches to jurisdiction among the types of protection orders.<sup>11</sup>

Specifically, the legislature directed that “the work shall assess whether jurisdiction should be harmonized, modified, or consolidated to further the stated intent of this act.”<sup>12</sup> Additionally, the legislature asked the stakeholder group to consider “the underlying rationale for the existing jurisdictional divisions, assess whether the jurisdictional division creates barriers to access, gather data on usage and financial costs or savings, and weigh other relevant benefits and ramifications of modifying or consolidating jurisdiction.”<sup>13</sup>

We viewed these issues through an accessibility lens, consistent with E2SHB 1320’s intent to clarify and simplify proceedings.<sup>14</sup> To help inform our understanding, we sought information from the following sources: (1) research from the King County Law Library on the legislative history of jurisdictional divisions for the different civil protection orders; (2) a data request to the Administrative Office of the Courts (AOC); (3) a statewide survey of victim advocates and attorneys; (4) Washington State Women’s Commission (WSWC) statewide listening sessions; (5) surveys of court clerks, judges, and administrators; and (6) discussion over the course of two meetings on October 22, 2021 and November 10, 2021.

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<sup>11</sup> Chapter 215, Laws of 2021 at pp. 21-22.

<sup>12</sup> *Id.*

<sup>13</sup> *Id.*

<sup>14</sup> *Id.* at p. 7.

## A. Current Jurisdictional Division

Original jurisdiction to hear civil protection order proceedings varies according to both order type and individual case criteria. Below is a chart that visually depicts the **current** jurisdictional scheme for civil protection orders:

Order Type	SAPO	DVPO	AHO	SPO	VAPO	ERPO
	<p>Filed in Municipal, District, or Superior Court (all 3 courts may accept a filing)</p> <p><u>Must be transferred to Superior Court if case involves (a) superior court has exercised/is exercising jurisdiction over a proceeding involving the parties, (b), residential schedule of/contact w/ children of the parties at issue, (c) request for exclusion from dwelling.</u></p> <p>NOTE: does not require transfer for party or victim under 18. No permissive juvenile court jurisdiction.</p>	<p>Filed in Municipal, District, or Superior Court (all 3 courts may accept a filing)</p> <p><u>Must be transferred to Superior Court if case involves (a) superior court has exercised/is exercising jurisdiction over a proceeding involving the parties, (b), residential schedule of/contact w/ children of the parties at issue, (c) request for exclusion from dwelling</u></p> <p>NOTE: does not require transfer for party or victim under 18. No permissive juvenile court jurisdiction.</p>	<p>Filed in District Court ONLY unless local rule permits municipality to hear such cases</p> <p>No filing in Superior Court.</p> <p><u>Must be transferred to Superior Court if lower courts finds: if shown: (a) party or victim under 18, (b) action involves title or possession of real property; (c) superior court has exercised/is exercising jurisdiction over a proceeding involving the parties, (d) action would have the effect of interfering with a respondent’s care, control or custody of respondent’s minor child.</u></p> <p>Potential transfer for unenumerated “meritorious reasons.”</p> <p>NOTE: requires transfer to superior court for party or victim under 18. No permissive juvenile court jurisdiction</p>	<p>Filed in District Court ONLY unless local rule permits municipality to hear such cases</p> <p>No filing in Superior Court</p> <p><u>Must be transferred to Superior Court if lower courts finds: if shown: (a) party or victim under 18, (b) action involves title or possession of real property; (c) superior court has exercised/is exercising jurisdiction over a proceeding involving the parties, (d) action would have the effect of interfering with a respondent’s care, control or custody of respondent’s minor child.</u></p> <p>Potential transfer for unenumerated “meritorious reasons.”</p> <p>NOTE: requires transfer to superior court for party or victim under 18. No permissive juvenile court jurisdiction</p>	<p>Superior Court ONLY</p>	<p>Filed in Superior Court.</p> <p>Additionally, filed in Municipal and District courts only for temporary orders and then transferred to Superior Court for full hearing.</p> <p>Juvenile courts—a division of superior courts— “may” exercise jurisdiction if the respondent is under 18 years of age</p>

The DVPO jurisdictional scheme was enacted first and appears to have served as the model for the SAPO jurisdictional scheme.

A different approach was adopted by the legislature for AHOs, which protect against unlawful harassment and can vary widely in complexity and seriousness of alleged harm. A concern exists that a significant number of antiharassment petitions are frivolous or allege relatively minor harms and prevent courts, especially superior courts, from attending to more complex or serious disputes. The legislature has required that antiharassment petitions be filed first in district court, which acts to screen the matters to determine which should be transferred to superior courts. This jurisdictional approach also applies to stalking petitions, which originated as sister petitions to antiharassment petitions.

VAPO and ERPO proceedings are each subject to unique schemes. They both require full hearings only in superior courts. To facilitate petitioner access, ERPO proceedings can be initiated in courts of limited jurisdiction and then transferred for full hearings to superior courts. The majority of ERPO petitions are filed by law enforcement in superior courts.

There are noticeable variations regarding treatment of juveniles. For SPO and AHO proceedings, a court of limited jurisdiction must transfer the matter to superior court if a party or victim is under age 18, but not for DVPO and SAPO matters. This reduces the access options for SPO and AHO parties who are under age 18. The ERPO law (passed by initiative) permissively authorizes juvenile courts to hear ERPO petitions. Juvenile courts, which are part of the superior courts, address dependency, At-Risk Youth (ARY), Child In Need of Services (CHINS) and juvenile offender matters. As a matter of practice ERPOs are not commonly handled in juvenile courts.

## ***B. Legislative History of Protection Order Jurisdiction***

In order to understand the origin of the current jurisdictional structure, we reviewed the legislative history of the jurisdictional enactments related to each of the different civil protection orders. The results of this research provide insights into the intent behind the existing jurisdictional scheme.

### **1. Injunctive relief is the foundational remedy underlying protection and restraining orders.**

Civil protection orders as we know them today were developed as pre-drafted restraining orders, with pleadings and relief tailored to the harms sought to be prevented and redressed. Injunction is a matter heard in equity, i.e., resolved pursuant to a court's powers to do equity, rather than at law. The original 1854 statute establishing the use of injunctions in Washington Territory created jurisdiction in the existing court of general jurisdiction (which are today known as superior courts<sup>15</sup>). However, if this court of general jurisdiction was closed (i.e., the justices were in session at the Supreme Court and not riding circuit), then the petition was to be filed with the Supreme Court. The statute remained unchanged until Hill's Code in 1891, when it was amended to reflect that: (1) Washington State courts would never close but would be perpetually in session; and (2) the superior courts became the courts of general jurisdiction. The legislature reiterated these changes in the RCW in 1957.

With the above background in mind, the following **Section 2** outlines the development of jurisdiction associated with each type of protection order proceeding. **Section 3** outlines

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<sup>15</sup> From the formation of the Washington Territory in 1854 until 1993, the superior court (or its territorial predecessor, confusingly called "district court") had exclusive jurisdiction over cases heard in equity. "District courts" were established in Washington Territory in §9 of the Organic Act (establishing the government of Washington Territory). The Territorial courts were comprised of the Supreme Court, district courts, and lesser courts (probate and justice of the peace courts). The justices of the Supreme Court would ride circuit and hold court at their district courts when not in session at the Supreme Court. Evidence of district courts as courts of general jurisdiction can be found in the Code of 1881, Ch. CLV, §2121.

constitutional concerns regarding the jurisdiction of municipal courts to preside over protection order proceedings.

## **2. Jurisdictional Developments by Type of Proceeding**

This section traces the origin of jurisdiction<sup>16</sup> for each of the six types of protection order proceedings:

- Domestic violence protection orders (DVPOs) - enacted in 1984;
- Vulnerable adult protection orders (VAPOs) - enacted in 1986;
- Antiharassment protection orders (AHOs) - enacted in 1987;
- Sexual assault protection orders (SAPOs) - enacted in 2006;
- Stalking protection orders (SPOs) - enacted in 2013; and
- Extreme Risk protection orders (ERPOs) - enacted by initiative in 2016.

### **i. Domestic Violence Protection Orders (DVPO) – 1984**

At its inception, the statute creating proceedings for DVPOs designed a multi-layered jurisdictional scheme for reasons of access, judicial efficiency, and subject matter competence.

The original draft of the bill, introduced in the Senate in 1984, gave jurisdiction to superior courts, but this simple directive was not passed.

The House Committee on Judiciary then recommended replacement language allocating responsibilities among the superior, district, and municipal courts and requiring removal to superior court in certain situations where the superior court has subject matter jurisdiction. These included the existence of a divorce, parentage, child custody or visitation, or other family court proceeding involving the parties. Thus, if such a proceeding was already filed or was later filed

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<sup>16</sup> As noted in the introduction, “jurisdiction” as used here refers to procedural requirements allocating protection order cases among the superior courts and courts of limited jurisdiction. It does not denote the fundamental constitutional authority of the district and superior courts power to decide certain matters.

in the superior court, that court would be the exclusive forum for the civil protection order matter, which would be transferred from a court of limited jurisdiction. This language was adopted and codified.<sup>17</sup>

In 1985, the legislature revised the criteria triggering removal of a DVPO proceeding from a court of limited jurisdiction to superior court. The new criteria included matters of child dependency and/or parental rights termination, child custody and/or visitation, and exclusion from a shared dwelling.

The 1985 amendments also required district and municipal courts to facilitate the removal of cases by having those courts handle the ex parte temporary order and then schedule the full hearing with the superior court. The amendments allowed district or municipal courts to issue and enforce temporary orders while the superior court assumed jurisdiction.

Finally, the amendments granted district and municipal courts concurrent jurisdiction with the superior court to extend the restraining order if the order and notice of hearing were not timely served on the respondent.

In 1987, a session law clarified the grant of jurisdiction to issue and enforce temporary restraining orders applied to both district and municipal courts. (Earlier bills had used “or”.) The session law also granted district and municipal courts the jurisdiction to enforce the final DVPO, not merely the temporary order.

In 1989, an amendment passed changing the terms regarding child custody and child visitation to “residential schedule and contact with children of the parties.” This appears to have been an effort to modernize the language consistent with Chapter 26 RCW concerning Domestic Relations.

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<sup>17</sup> Chapter 263, Laws of 1984 at p. 1,439.

ii. Vulnerable Adult Protection Order (VAPO) – 1986

VAPOs have a unique origin in superior courts. Before 1986, the protection of vulnerable adults and reports of elder abuse were handled by the Department of Social and Health Services (DSHS). The reports were handled as administrative investigations carried out by the department. Under that process the department would involve the superior courts to: (1) start a guardianship if the department determined that an elderly person was incompetent and unable to consent to protection (with the department bringing the case as an interested party); or (2) seek an injunction to prevent interference with the investigation of elder abuse.

The 1986 bill creating a civil proceeding that could be initiated by citizen petitioners originated in the senate to address the existing administrative process. A substitute senate bill sought to allow citizen petitioners to seek protection orders and did not alter the provisions establishing jurisdiction in superior courts. This jurisdiction has remained unchanged.

iii. Antiharassment Protection Order (AHO) – 1987

The legislature first created AHOs in 1987 to be handled by superior courts. The legislature permitted district and municipal courts to enforce such protection orders using contempt or criminal penalties for violations. The legislature has since enacted multiple changes to this original scheme.

Major changes were proposed in 1991 when the legislature considered a bill that addressed multiple aspects of district court jurisdiction. That bill sought to replace the superior court's jurisdiction for antiharassment proceedings with district court jurisdiction, in the interest of conserving superior court resources:

*These high volume [sic] cases generally are not overly complex and do not take a great deal of time per case. They are ideally suited to the*

*district courts, and the transfer of jurisdiction will help relieve superior court congestion.*<sup>18</sup>

Again, as we have seen for DVPOs, this straightforward approach was not passed. Rather than simply placing jurisdiction in district courts, amendments provided for district court jurisdiction but authorized the district court to transfer antiharassment petitions to the superior court upon a finding of good cause.

Testimony in favor was presented by the Washington Commission on Trial Courts, Washington State Magistrates Association, Seattle-King County Bar Association, and the Washington State Bar Association. The recommendations were part of a broader recommendation, concerning use of district courts, by the Commission on Washington Trial Courts with support from representatives of the superior and municipal courts. There was no testimony against. Amendments to the bill allowed district courts to transfer antiharassment petitions to superior court upon a finding of good cause and for superior courts to have concurrent jurisdiction with district courts to receive the transferred antiharassment petitions.

As this bill was considered, the legislature grappled with the constitutionality of permitting district courts to hear matters in equity. A 1991 vote on a constitutional amendment to expressly permit such jurisdiction failed in the November 5, 1991 election. When the constitutional amendment ultimately passed in 1993, these changes went into effect.

In 1999, the legislature added a requirement to transfer antiharassment matters to superior court if the respondent was a minor. This was intended to promote consistency because superior courts handled family-related matters:

Many petitions for civil antiharassment protection orders have young people as respondents. These petitions often involve disputes between family members. Giving the

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<sup>18</sup> Senate Bill Report ESHB 1824, Committee on Law & Justice (April 3, 1991); House Bill Report HB 1824, House Committee on Judiciary (March 1, 1991).

superior court jurisdiction in these cases would promote consistency because the superior court already handles most family related matters.<sup>19</sup>

The legislative history also noted that “it is burdensome for district courts to have to do findings of fact and conclusions of law in order to transfer an antiharassment protection order case to superior court.”<sup>20</sup> Additionally, the District and Municipal Court Judges Association urged that “[d]istrict court does not have the tools to handle juvenile issues.”<sup>21</sup> There was no testimony against.

In 2005, the legislature passed a bill to allow municipal courts to not simply enforce orders entered by other courts but to issue antiharassment protection orders if the particular municipal court adopted court rules to facilitate the proceedings. This enactment echoed the requirement to transfer the case to superior court if the respondent was a minor. The bill aimed to provide greater access for petitioners and ease the district court’s workload:

This bill will provide greater access to individuals seeking anti-harassment protection orders as there are more municipal courts than district courts. The bill will also ease the workload of district courts. There is a public benefit to having municipal courts grant anti-harassment protection orders as citizens will not have to travel long distances to the county seat to obtain an order. The bill preserves the local option for municipal courts to exercise discretion as to whether they have sufficient resources to permit municipal courts to exercise jurisdiction over anti-harassment protection orders.<sup>22</sup>

In 2011, the legislature vested original jurisdiction for antiharassment petitions in district courts and required mandatory transfer to superior court if any of the following issues arose: (1) respondent is a minor; (2) a superior court was already exercising jurisdiction over the parties in an existing case; (3) involvement of title or right to possession of real property; or (4) involvement of a right to custody/care/control for a minor child of the respondent. Legislative

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<sup>19</sup> House Bill Report HB 1199, House Committee on Judiciary (1999).

<sup>20</sup> *Id.*

<sup>21</sup> *Id.*

<sup>22</sup> House Bill Report HB 1296, House Committee on Judiciary (2005).

history materials indicate that the legislature intended to conserve superior court resources, noting that superior courts are “more expensive to run” and district courts “are designed to move cases through more economically:”

Testimony for: By moving these cases to district court we will be saving a great amount of money partially because these total approximately two-thirds of the cases that come before us in superior court. Superior courts are much more expensive to run than a district court. District courts are designed to move cases through more economically. There will be a savings as a result of making the change of original jurisdiction to district court.<sup>23</sup>

In 2019, the legislature clarified that district and municipal courts have concurrent jurisdiction with superior courts to enter ex parte temporary orders in unlawful harassment cases that are then transferred by the district or municipal court to superior court. The legislative history materials indicate an intent to provide consistent access and procedures for the different types of protection orders, noting that petitioners could seek ex parte orders in courts of limited jurisdiction for other types of protection orders.<sup>24</sup>

#### iv. Sexual Assault Protection Orders (SAPO) - 2006

When the bill passed in 2006, language about jurisdiction specified that it was to be the same as that used by the DVPO with a cross reference to RCW 26.50.020(5). The legislative history materials commented, “The policy goals of domestic violence protection orders should apply to sexual assault victims.”<sup>25</sup> SAPO proceedings were viewed as filling a gap that existed between the availability of DVPO relief and antiharassment relief.<sup>26</sup>

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<sup>23</sup> Senate Bill Report SB 5579, Senate Committee on Judiciary (February 11, 2011).

<sup>24</sup> Senate Bill Report SHB 1350, Senate Committee on Law & Justice (April 16, 2019). *See also* House Bill Report SHB 1350, House Committee on Civil Rights & Judiciary (April 16, 2019).

<sup>25</sup> House Bill Report SHB 2576, House Committee on Judiciary (March 8, 2006).

<sup>26</sup> *Id.*

v. Stalking Protection order (SPO) - 2013

The legislature created the stalking protection order type in 2013 and based its jurisdictional scheme on antiharassment provisions. Those matters were considered closely related, and the jurisdictional scheme permitted a petitioner to seek relief under both statutes and the court to enter the appropriate type of protection order (stalking or antiharassment) based on the evidence presented at the hearing. Additionally, the legislature approved of jurisdiction primarily in the district courts as a cost efficiency.

While the legislature vested original jurisdiction in the district courts, it gave those courts the option to transfer a case to superior court for good cause, and it required transfer if any of the following circumstances were involved: (1) respondent was a minor, (2) the superior court was already exercising jurisdiction over the parties in an existing case, (3) title or right to possession of real property, or (4) right to custody/care/control for a minor child of the respondent. Legislative history materials generally note, “These cases are going to be handled at the district court level, as antiharassment orders are.”<sup>27</sup>

Municipal courts were granted jurisdiction to accept and resolve stalking protection order proceedings if the particular municipal court adopted court rules applicable to the proceedings. The municipal court had the same option to transfer the case to superior court for good cause, and the same duty to transfer under certain circumstances, as applied to district courts.

The bill gave concurrent jurisdiction to the superior court to receive stalking matters transferred to it by the district and municipal courts. The bill was viewed as filling gaps, namely expanding relief from that available under the antiharassment statute, which was considered “completely ineffective to address this type of behavior” perpetrated by strangers of the victim.<sup>28</sup>

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<sup>27</sup> House Bill Report ESHB 1383, House Committee on Judiciary (April 18, 2013).

<sup>28</sup> Senate Bill Report ESHB 1383, Senate Committee on Judiciary (April 18, 2013).

Legislative history materials noted that stalking behavior committed by strangers did not have a ready remedy and that stalking behavior often lacked an overt act of violence, noting that such cases “are rarer and more extreme than harassment cases” and that “[s]talking deserves the same attention as domestic violence and sexual assault protection orders are given.”<sup>29</sup> The Senate bill report remarks, “District courts agreed to take original jurisdiction of these matters, which greatly reduced the fiscal impact.”<sup>30</sup>

Additionally, the legislature considered these matters linked to antiharassment petitions because petitioners could apply for both antiharassment and stalking, and “the court will decide based on the evidence which order is appropriate.”<sup>31</sup> The Senate Report noted that one form will be used to petition for protection from both antiharassment and stalking.<sup>32</sup>

vi. Extreme Risk Protection Order (ERPO) - 2016

This protection order, passed by voter initiative, placed jurisdiction in the superior courts. It granted limited concurrent jurisdiction to the district and municipal courts to handle two areas:

- Issue and enforce the *initial ex parte temporary* order and schedule the follow-up full hearing in superior court; and
- Extend the *ex parte temporary* order if service was not timely completed.

The voter pamphlet materials make no reference to the jurisdictional provisions.

In 2019, the statute was modified to permissively allow juvenile courts to hear ERPO cases if the respondent is a minor (in addition to clarifying that ERPOs are available against minor respondents and adding other provisions felt to be helpful to youth, such as a

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<sup>29</sup> House Bill Report ESHB 1383, House Committee on Judiciary (April 18, 2013). *See also* Senate Bill Report ESHB 1383, Senate Committee on Judiciary (April 18, 2013).

<sup>30</sup> Senate Bill Report ESHB 1383, Senate Committee on Judiciary (April 18, 2013).

<sup>31</sup> *Id.*

<sup>32</sup> *Id.*

confidentiality provision). Juvenile courts are part of the superior court system. The legislative materials do not provide insight specifically on the jurisdictional addition.<sup>33</sup>

### **3. Municipal Court Jurisdiction to Hear Matters of Equity?**

Statutes vesting municipal courts with jurisdiction to hear protection order cases may be constitutionally infirm. Article IV, Section 6 of the Washington Constitution, which originally gave the superior courts exclusive jurisdiction over all cases in equity, has been interpreted to prohibit the legislature from vesting that jurisdiction in courts of limited jurisdiction. This issue came to the forefront between 1991 and 1994 when amendments to jurisdictional provisions related to antiharassment protection order proceedings were at issue, as discussed above.

In 1994, in *State v. Brennan*, 76 Wn. App. 347, 356 (1994), the Washington Court of Appeals considered whether district courts could decide equitable cases concerning civil antiharassment protection order proceedings. The Court found that the provision of the Washington Constitution that granted original jurisdiction to superior courts in “all cases in equity”<sup>34</sup> gave superior courts *exclusive* jurisdiction over the issuance of civil antiharassment protection orders, and that the legislature had violated that provision by granting district courts jurisdiction to issue such orders.<sup>35</sup> As this litigation was pending, an amendment to the Washington Constitution was passed in 1993, which granted district courts concurrent jurisdiction to hear cases in equity.<sup>36</sup> Thus, the Constitution now makes clear that district courts have such jurisdiction. Municipal courts were not included in the amendment.

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<sup>33</sup> Senate Bill Report ESSB 5027, Senate Committee on Civil Rights & Judiciary (April 4, 2019); House Bill Report ESSB 5027, House Committee on Law & Justice (April 4, 2019).

<sup>34</sup> Wa. Const. art. IV, § 6.

<sup>35</sup> *State v. Brennan*, 76 Wn. App. 347, 356 (1994).

<sup>36</sup> Amendment 87, 1993 House Joint Resolution No. 4201. Approved in the general election of November 2, 1993.

### ***C. Volume of Protection Order Cases***

AOC data<sup>37</sup> from 2018 – YTD 2021 shows the number of DVPOs, SAPOs, SPOs, and AHOs filed statewide during each of those years by court level:

#### **Protection Orders Filed in Superior Court**

	<b>Case File Date - Year</b>			
	2018	2019	2020	YTD 2021
<b>Protection Order Type</b>				
Domestic Violence	11,749	11,914	10,495	9,803
Sexual Assault	355	368	298	289
Stalking	123	128	101	95
Antiharassment	2,307	2,474	2,166	2,170

#### **Protection Orders Filed in District Court**

	<b>Case File Date - Year</b>			
	2018	2019	2020	YTD 2021
<b>Protection Order Type</b>				
Domestic Violence	1,199	1,132	941	822
Sexual Assault	61	45	47	48
Stalking	365	289	255	237
Antiharassment	5,637	5,723	5,502	5,583

#### **Protection Orders Filed in Municipal Court**

	<b>Case File Date - Year</b>			
	2018	2019	2020	YTD 2021
<b>Protection Order Type</b>				
Domestic Violence	111	103	75	83
Sexual Assault	2	1	4	1
Stalking	20	11	8	10
Antiharassment	149	126	59	96

Additionally, between 2018 and August 2021, 1,878 civil protection order cases were transferred from district or municipal court to superior court.<sup>38</sup>

<sup>37</sup> See Appendix B. This data request includes incomplete King County Superior Court data and does not include King County District Court data.

<sup>38</sup> *Id.* These transfers occurred in the following jurisdictions: Adams County, Asotin County, Benton County, Clallam County, Clark County, Ferry County, Grant County, Grays Harbor County, Island County, Jefferson County, Kitsap County, Kittitas County, Klickitat County, Lewis County, Mason County, Okanogan County, Pacific

#### ***D. Court Users' Perspectives on Jurisdiction/Transfer of Protection Orders***

For this report, the stakeholder group conducted a statewide survey of victim advocacy groups<sup>39</sup> and considered advocate and survivor responses collected by the WSWC<sup>40</sup> during its Fall 2021 statewide listening tour.

Survey results demonstrated no desire for major changes in jurisdiction. Rather, survivors' satisfaction appears correlated with consistency in procedures, results, and the judicial officers hearing the matters, in addition to perceptions regarding judicial training and familiarity with the subject matter and the dynamics of domestic violence and sexual assault cases. While over 60% of survey responses in this category expressed a preference, anecdotal experiences with specific judicial officers dominated the explanations for the preferences, and no clear pattern emerged.<sup>41</sup> As with other issues addressed in this report, increased funding for and improvement of judicial training will improve the experience in all courts.

Similarly, the WSWC report, *H.B. 1320 Civil Protection Orders Listening Forum Report September - October 2021*,<sup>42</sup> confirms that preferences for court level were based more on the survey respondents' perceptions of judicial officers' experience and seriousness of the cases.<sup>43</sup> No clear pattern emerged regarding a general preference for a particular *court*. Participants also expressed support for the existing system, to the extent it permits filing in the courthouse closest to the petitioner, regardless of court level, because this increases accessibility (together with online filing and virtual and telephonic court appearances).<sup>44</sup>

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County, Pend Oreille County, Skagit County, Snohomish County, Spokane County, Stevens County, Thurston County, Whatcom County, Whitman County, and Yakima County. 1,402 of these cases were transferred in Snohomish County.

<sup>39</sup> Appendix C.

<sup>40</sup> Appendix D.

<sup>41</sup> Appendix C at Q12, Q13, pp. C 31-33.

<sup>42</sup> Appendix D.

<sup>43</sup> *Id.* at D 46.

<sup>44</sup> *Id.* at D 47.

A large majority of advocate/attorney survey responders – 85% – answered that they had concerns that petitioners’ incorrect completion of paperwork results in delays.<sup>45</sup> Better forms and more funding for courthouse assistance in all levels of courts could mitigate this problem.

The possibility of filing a petition at the “wrong” courthouse was not a concern of such significance that jurisdictional changes are supportable; rather, an increase in user-friendly practices in courthouses to assist petitioners would increase accessibility and reduce some frustration. No pattern by level of court was established, nor was any geographic pattern discernable. Often, petitioners received satisfaction through automatic transfers to the correct court.<sup>46</sup> When cases are dismissed or re-filings are necessary, this may discourage petitioners and exacerbate challenges involving missed work or school, childcare, language barriers, and safety issues with not having an order in place.

Participants in the WSWC listening tour also expressed a desire to see increased system coordination:

For example, one recommendation was that if a protection order petition is filed in the wrong court, the court clerks could facilitate access by assuming responsibility for transferring the petition to the correct court, along with providing the petitioner with the appropriate court jurisdiction information before an appearance date, rather than adding the burden for refiling on the petitioner. This would reduce the likelihood the petitioner would travel to court only to have a judge or commissioner send them to a different court on a different date, prolonging the process.<sup>47</sup>

Such comments underscore the reality that Washington has a non-unified court system. The proximity and ease of system coordination between the different levels of courts differs geographically.

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<sup>45</sup> Appendix C at Q15, p. C 36.

<sup>46</sup> *Id* at Q14, pp. C 34-35.

<sup>47</sup> Appendix D at p. D 47.

Court users did not reject the transfer process itself. Responses on the issue of transfer indicated a strong preference (over half) for being able to file in a nearby municipal or district court, even where a subsequent mandatory transfer might occur, rather than being required to file somewhere else.<sup>48</sup> Explanations included that the stress of coming to court was minimized by filing at the closest location and that such access avoided greater transportation burdens. Additionally, responses by advocates indicated that the transfer process was not too confusing to their clients. Advocates view mandatory transfer of petitions to the superior court if petitioners or parties are under age 18 as an access barrier, and as unnecessary to support a “one child, one court” philosophy because other criteria would require a transfer if the superior court is exercising jurisdiction over a minor party. The latter circumstance is infrequent and does not appear to support wholesale transfer of all petitions involving minors.

The WSWC report found through its listening sessions with self-identified survivors that outcomes improved—regardless of the level of court used—when there was a consistent judicial officer who presided over their case throughout the protection order process.<sup>49</sup> “They expressed that such consistency is beneficial as it allows the judge or commissioner presiding over the case the ability to see and recognize a pattern of behavior over time.”<sup>50</sup> A pre-assignment process as suggested by this feedback would have significant impacts on the courts and merits further review and input from judges, court administrators, and court clerks.

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<sup>48</sup> Appendix C, at Q16, p. C 37.

<sup>49</sup> Appendix D at p. D 47.

<sup>50</sup> *Id.*

### ***E. Court Administrators', Clerks', and Judges' Perspectives on Jurisdiction/Transfer of Protection Orders***

The stakeholder group also obtained information from a statewide survey of court administrators, clerks, and judges.<sup>51</sup> Substantial information was gathered on specific areas that relate to jurisdiction. This includes that judges and commissioners predominately make the determination whether to transfer a case.<sup>52</sup> A few courts indicated that staff sometimes decided whether a transfer was necessary.<sup>53</sup>

Procedures for implementing a transfer lack consistency among the courts and include: hand delivery, certified mail, interoffice mail, transfer within JIS, electronic transfer, petitioner involvement, and/or telephonic contact.<sup>54</sup> Similarly, documentation of the transfer process varied, including use of a case management system, a transfer letter, change of venue documentation, transmission of a complete court file, docket notes, notations in the judicial information system (JIS), and whether to leave the limited jurisdiction matter open or close it.<sup>55</sup>

Court responses indicated that assistance provided to petitioners within courthouses is limited to general or simple information, and may include referral to victim advocacy services.<sup>56</sup> In some courts, designated staff (facilitators, liaisons, or advocates) provide assistance with completing the paperwork.<sup>57</sup> Forty-five percent (45%) of survey responses from superior courts and thirty-one percent (31%) from courts of limited jurisdiction indicated their courts offer victim advocacy services.<sup>58</sup>

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<sup>51</sup> Appendices F (County clerks) and G (District & municipal court judges, clerks, administrators).

<sup>52</sup> Appendix E at Q35, p. E 70; Appendix F at Q42, pp. F 91-92.

<sup>53</sup> *Id.*

<sup>54</sup> Appendix E at Q36, p. E 71; Appendix F at Q43, pp. F 93-94.

<sup>55</sup> Appendix E at Q37, p. E 72; Appendix F at Q44, pp. F 95-96.

<sup>56</sup> Appendix F at Q45, pp. F 97-98 and Appendix G at Q33, p. G 118

<sup>57</sup> *Id.*

<sup>58</sup> Appendix G at Q34, p. G 119; Appendix F at Q46, p. F 99.

As part of the Commission's inquiry into the transfer process, King County Superior Court provided information outlining the following transfer process from King County District Court:

1. The district court judge signs an order to transfer a case to superior court;
2. District court staff obtain a superior court case number and e-file the petition, temporary order, and transfer order in superior court under the new case number;
3. The Clerk's office for the superior court reviews the new filing to ensure that the case meets administrative guidelines;
4. The Clerk's office docket the new hearing date;
5. The superior court's case management system uploads transferred cases with a new hearing date into the case management system;
6. Superior court staff run a weekly report from the case management system to set the protection order calendar and review case files for information about service, procedural history, respondents under age 18, representation, in-custody parties, and interpreter needs;
7. A calendar is created with that information;
8. Consistent with COVID protocols, staff posts the calendar and provides Zoom links and instructions for the parties.

This information offers just one snapshot of the process. Responses to our surveys clearly indicated that processes and procedures vary widely.

Suggestions for improving the transfer process emphasized better coordination between superior and district courts. Moreover, district courts should indicate in the transfer order the circumstances and findings supporting transfer to the superior court. Finally, funding specifically

designated for judicial education, including the creation of a bench card on transfer for all levels of courts, would improve consistency. Employment of such measures by the courts would enhance consistency, particularly if the calendar rotates among judicial officers or is heard by pro tem judges.<sup>59</sup>

### ***F. Stakeholder Group Perspectives on Jurisdiction/Transfer of Protection Orders***

The stakeholder group received no recommendation to make substantial alterations to jurisdictional division of authority from any stakeholder or participant. The stakeholder group consisted of judicial officers, court clerks and administrators, attorneys that represent petitioners and respondents, and victim advocates from around the State of Washington, as well as personnel from the AOC. Invitations to participate were extended to court associations, including the Superior Court Judges Association (SCJA) and the District and Municipal Court Judges Association (DMCJA).

Discussions during the stakeholder meetings on October 22, 2021 and November 10, 2021, emphasized that for survivors active in the civil protection order process—primarily concerning DVPOs, SAPOs, AHOs, and SPOs—flexibility for filing locations remains imperative for access.<sup>60</sup> While electronic and remote filing and hearings may help to improve access for many, not all petitioners will have access to technology to e-file or attend hearings.<sup>61</sup>

Discussions recognized that judicial officer continuity provides greater familiarity with the parties, history, and allegations, which in turn enables more efficient use of court time,

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<sup>59</sup> A pro tem judge is someone who is brought in to serve temporarily as a judge with the consent of the parties.

<sup>60</sup> Appendix J at pp. J 157-158.

<sup>61</sup> See e.g. Patrick, Anna and Hellman, Melissa. “Disconnected in isolation: How the coronavirus pandemic shed light on the digital divide.” *The Seattle Times* (June 9, 2020). Available at <https://www.seattletimes.com/seattle-news/disconnected-in-isolation-how-the-coronavirus-pandemic-shed-light-on-the-digital-divide/>.

creates consistency for petitioners, and may reduce “judge-shopping.”<sup>62</sup> Advocate and attorney stakeholders, similar to WSWC participants, noted that this should be a priority.

One specific transfer-related issue warrants clarification by the legislature. Different interpretations exist regarding statutory provisions addressing transfer to the superior court when “meritorious reasons” are found by a court of limited jurisdiction.<sup>63</sup> The authority of a court of limited jurisdiction to transfer AHO petitions and SPO petitions for discretionary reasons not otherwise enumerated in those statutes is unclear.

### ***G. Additional Areas of Exploration***

In the limited time permitted for this report, the stakeholder group was not able to gather comprehensive data on costs or savings related to the administration of protection order proceedings in all court levels. Moreover, while this report details the original legislative intent for certain jurisdictional allocations, comprehensive information is not readily available to evaluate whether allocations are meeting their intended goals related to efficiency, cost savings and avoiding congestion in superior courts. More information could be sought to evaluate whether the current jurisdictional approach is resulting in “an efficient and effective civil process.”

Utilizing both superior courts and courts of limited jurisdiction necessarily promotes access for petitioners and is widely approved by stakeholders. Even with advances in technology and remote access, a physical courthouse location remains necessary for access especially as to marginalized members of the community, whom the legislature expressly intends to support.

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<sup>62</sup> Judge-shopping, also referred to as “forum shopping” refers to the practice of searching for a judge who will grant a favorable outcome.

<sup>63</sup> See RCW 10.14.150(4) (antiharassment); RCW 7.92.50(5) (stalking). The issue is whether these provisions confer concurrent superior court jurisdiction to receive a transfer made pursuant to the enumerated, mandatory reasons for transfer, or for other reasons.

All courts are handling and hearing increasing volumes of protection order cases, far more than when the individual statutes were enacted beginning in 1984. The volume of domestic violence protection orders is especially large. Congestion at superior courts remains a concern, as does the ability to achieve the legislature’s goal that civil protection orders remain “expediently” available to self-represented litigants.

Abbreviated, accessible hearings support using district court resources, yet the legislature should consider that to maintain this jurisdictional distribution may require additional investments in district courts.

Suggested additional information to be sought includes: (1) how the different levels of courts allocate funding to civil protection order proceedings, (2) estimates of judicial officers and support staff necessary to facilitate the helpful, user-friendly procedures envisioned in E2SHB 1320 and to assure consistency, safety, timeliness, and procedural fairness, and (3) what specific resources would assist in achieving specific requirements of E2SHB 1320. An analysis of such information could test the rationales for the jurisdictional schemes including strategic deployment of judicial resources.

### ***H. Recommendations***

- Regarding access for survivors, the general jurisdictional structure remains supportable and justified by the goals and considerations that shaped the original enactments. The structure creates broad access to physical locations for filing and promotes efficient allocation of judicial resources including use of superior court resources for complex cases and certain subject areas already connected to the superior courts, while using district courts to relieve superior court congestion. No major revisions appear obviously necessary or desirable from a survivor/access

perspective. Geographical differences—rather than differences between the levels of courts—appear to produce more disparities regarding access and the user experience.

- Transfer of cases from courts of limited jurisdiction to superior courts is not objectionable in and of itself. The transfer process could be improved, however, including through the creation of a uniform transfer form (as designed by the AOC Forms Committee) that would create more uniformity and clarity. Additionally, the user experience and the internal workings of the transfer process would benefit if courts formulated and posted written procedures addressing transfer. Because of the different courts involved and the varying circumstances and considerations of the different courts and geographies, circumscribing the procedures through legislative enactment is not recommended but best practices could be encouraged with the AOC Forms Committee designing a model template.
- Two immediate recommendations would better support procedural consistency between the different types of protection orders, and promote ease in comprehension and application of the jurisdictional requirements.
  - First, it is recommended that the legislature consider standardizing the circumstances that require transfer of cases to the superior court across four specific types of protection orders: Sexual Assault, Domestic Violence, Stalking and Antiharassment Protection Orders. The existing variations regarding mandatory transfer to the superior court are confusing and appear anachronistic. For example, the legislature could unify the provisions controlling these four protection order types by requiring that superior courts handle full hearings when any of the following four criteria are met:
    - The action involves title or possession of real property;

- The action would have the effect of interfering with a minor child’s residential schedule or contact with minor children of the parties at issue;
    - The action involves vacating a party from the parties’ shared residence or a request for exclusion from a dwelling; or
    - A superior court has exercised or is exercising civil jurisdiction over a proceeding involving the parties.
  - Second, it is recommended that the legislature permit direct filing in the superior court of all petitions where circumstances are alleged that would ultimately require a transfer.
- To provide a uniform, informed decision-making process, it is recommended that the legislature consider appropriating funds for training of judicial officers and court staff to be administered by the judiciary, which could include the creation of bench cards on transfer requirements. This recommendation aligns with other recommendations in this report for the provision of funding to develop more robust training resources.
- It is recommended that the legislature consider and evaluate the existing jurisdiction of municipal courts in light of constitutional concerns.
- To better support consistency and harmony between the different types of protection orders, and promote ease in comprehension and application of the jurisdictional requirements in the longer term, it is recommended that the legislature consider the benefit of additional information gathering regarding budgets, costs and resource allocation by the courts to civil protection order proceedings. Further evaluation could illuminate whether its prior goals for the jurisdictional scheme are being met, including whether the courts have sufficient resources to implement the legislative intent. This may be a particularly pressing question as to district courts in light of the

numerous instances where the legislature placed proceedings at the district court level to avoid congestion of superior courts.

## V. Best Practices for Minor Respondents & Petitioners

Pursuant to E2SHB 1320 Sec. 36(f), the legislature tasked the Gender and Justice Commission with convening stakeholders to consider and make recommendations regarding “[d]eveloping best practices for minor respondents and petitioners in civil protection order proceedings, including what sanctions should be provided for in law ...” In addition to system stakeholders named, additional input from professionals experienced in youth development, adolescent behavioral health, trauma-informed practices, and evidence-based modalities for the treatment of trauma was sought. Minor-specific provisions of E2SHB 1320 are listed in Appendix H to this report. To help inform our understanding of these issues, we also submitted a data request to the Administrative Office of the Courts (AOC) and devoted two stakeholder meetings to this issue, on September 24, 2021, and October 13, 2021.

### A. Youth Development and the Impact of Trauma

The research generally recognizes that adolescent brains are different than adult brains in significant ways that influence behavior and self-control,<sup>64</sup> and that “juveniles have less control, or less experience with control, over their own environment.”<sup>65</sup> In recognition of this inherent difference, United States Supreme Court precedents from the past 15 years establish that, in

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<sup>64</sup> See e.g. B.J. Casey, Rebecca M. Jones, and Todd A. Hare, “The Adolescent Brain.” *Ann NY Acad Sci.* 2008 Mar; 1124: 111-126. Available at <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC2475802/>.

<sup>65</sup> *Roper v. Simmons*, 543 U.S. 551, 557 (2005) citing Steinberg and Scott, “Less Guilty by Reason of Adolescence: Developmental Immaturity, Diminished Responsibility, and the Juvenile Death Penalty,” 58 *Am. Psychologist* 1009, 1014 (2003), available at <https://documentcloud.adobe.com/link/review?uri=urn:aaid:scds:US:5a3c74d2-c040-4b6b-b040-0708f172e826#pageNum=1>. See also Mallett, Christopher A. “Juvenile Life Without the Possibility of Parole: Constitutional But Complicated,” *Social Work Faculty Publications* (2013), available at [https://engagedscholarship.csuohio.edu/cgi/viewcontent.cgi?article=1009&context=clsowo\\_facpub](https://engagedscholarship.csuohio.edu/cgi/viewcontent.cgi?article=1009&context=clsowo_facpub).

criminal matters, youth must be treated differently.<sup>66</sup> Nationally, juvenile sentencing reform has been undertaken to reflect these differences.<sup>67</sup> Washington criminal case law reflects this development.<sup>68</sup>

During the preteen and teenage years, youth are learning the social and emotional skills necessary to form positive relationships; thus, this is an ideal time to prevent patterns of dating violence that can last into adulthood.<sup>69</sup> Unfortunately, dating violence, sexual violence, and bullying are prevalent among youth.<sup>70</sup> In passing E2SHB 1320, the legislature noted that “[r]esearch has identified that adverse childhood experiences such as exposure to domestic violence have long-term negative impacts on health, well-being, and life outcomes, including criminal legal system involvement.”<sup>71</sup> Youth who are victims of trauma are more likely to experience depression and suicidal ideation, with longitudinal studies identifying long-term

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<sup>66</sup> See *Roper v. Simmons*, 543 U.S. 551 (2005); *Graham v. Florida*, 560 U.S. 48 (2010); *Miller v. Alabama*, 567 U.S. 460 (2012).

<sup>67</sup> See Elizabeth Scott, et. al. “Juvenile Sentencing Reform in a Constitutional Framework” *Temple Law Review* Vol. 88 675-716 (2016).

<sup>68</sup> See *State v. SJC*, 183 Wn.2d 408 (2015); *State v. O’Dell*, 183 Wn. 2d 680 (2015) (“[U]ntil full neurological maturity, young people in general have less ability to control their emotions, clearly identify consequences, and make reasoned decisions than they will when they enter their late twenties and beyond.”); *State v. Houston-Sconiers*, 188 Wn.2d 1 (2017).

<sup>69</sup> Kathleen C. Basile, et. al. “Interpersonal Violence Victimization Among High School Students—Youth Risk Behavior Survey, United States, 2019” Center for Disease Control and Prevention (2020), available at <https://www.cdc.gov/mmwr/volumes/69/su/pdfs/su6901a4-H.pdf>.

<sup>70</sup> *Id.* Findings from the CDC reveal that 8.2% of students reported physical dating violence; 8.2% reported sexual dating violence; 10.8% reported sexual violence by anyone, of which 50% of cases were by a perpetrator other than a dating partner; 19.5% reported bullying on school property; and 15.7% reported electronic bullying victimization during the previous 12 months. Approximately one in eight students reported any dating violence, and one in four reported any bullying victimization. Chapter 8 of Washington’s 2018 Sexual Violence Bench Guide for Judicial Officers also notes that juveniles commit 23.2% of all reported sexual assaults and in cases in which the victim was younger than 6 years old, 40% of the persons who offended were juveniles. For cases in which the victim was 6-11 years old, 39% of the persons who sexually offended were juveniles. See [http://www.courts.wa.gov/content/manuals/SexualOffense/WA\\_SV\\_Guide.pdf](http://www.courts.wa.gov/content/manuals/SexualOffense/WA_SV_Guide.pdf). While these statistics are derived from criminal complaints, the civil protection order process is designed to provide victims a civil remedy for such harms so they need not rely on the criminal justice system and prosecution. See also Martin, Lisa Vollendorf. “What’s Love Got to Do with It: Securing Access to Justice for Abused Teens.” 61 *Cath. U. L. Rev.* 457, 460 (2012) which noted “In recent years, as many as twenty-five to thirty-five percent of teen girls report that their intimate partner physically, sexually, or emotionally abused them.”

<sup>71</sup> Chapter 215, Laws of 2021 at p. 3.

consequences to include binge eating, substance abuse, and antisocial behavior.<sup>72</sup> Teen dating violence poses a risk to the lives of adolescent girls.<sup>73</sup> The legislature also found that “[i]ndividuals with disabilities; Black and indigenous communities; and lesbian, gay, bisexual, transgender, queer, and other individuals experience a higher rate of sexual violence,”<sup>74</sup> underscoring the vulnerability of youth who are LGBTQ+ and/or BIPOC.

***B. Washington Protection Order Data for Cases Involving Youths***

AOC data from 2018 – 2020 shows the volume of DVPO, SAPO, SPO, and AHO cases involving youth statewide:<sup>75</sup>

**Antiharassment Protection Orders (AHOs)**

Year	PO cases filed where petitioner under 18	PO cases filed where respondent under 18	PO cases filed where petitioner and respondent under 18	PO orders granted where petitioner and respondent under 18
2020	338	108	25	18
2019	354	209	54	34
2018	431	242	87	64
2017	489	225	91	64
2016	453	193	46	36

**Domestic Violence Protection Orders (DVPOs)**

Year	PO cases filed where petitioner under 18	PO cases filed where respondent under 18	PO cases filed where petitioner and respondent under 18	PO orders granted where petitioner and respondent under 18
2020	107	63	19	16
2019	669	88	41	30
2018	804	87	34	25
2017	194	108	38	34
2016	190	119	46	40

<sup>72</sup> See e.g. Rue, et.al, School Based Intervention to Reduce Dating and Sexual Violence: A Systemic Review at 8 (2014); Molidor, C. E., “Gender differences of psychological abuse in high school dating relationships.” 12 *Child & Adolescent Social Work Journal* 2, 119–134 (1995).

<sup>73</sup> Around 7% of teen homicides between 2003 and 2016 were committed by intimate partners, and girls were the victims in 90% of those deaths. Chatterjee, Rhitu, “Teen Dating Violence Can Lead to Homicide- And Girls Are the Most Common Victims,” Public Health (2019).

<sup>74</sup> Chapter 215, Laws of 2021 at p. 4

<sup>75</sup> Appendix I for AOC data. Please note that this data excludes ERPOs, VAPOs, and data from King County Superior Court and King County District Court.

### Sexual Assault Protection Orders (SAPOs)

Year	PO cases filed where petitioner under 18	PO cases filed where respondent under 18	PO cases filed where petitioner and respondent under 18	PO orders granted where petitioner and respondent under 18
2020	86	48	33	25
2019	135	68	58	48
2018	137	59	48	39
2017	118	60	36	27
2016	130	62	28	25

### Stalking Protection Orders (SPOs)

Year	PO cases filed where petitioner under 18	PO cases filed where respondent under 18	PO cases filed where petitioner and respondent under 18	PO orders granted where petitioner and respondent under 18
2020	19	15	8	7
2019	47	40	37	37
2018	44	39	32	32
2017	42	28	24	24
2016	25	26	15	13

With the exception of SPO cases, this data indicates that minors are more frequently seeking protection from adult respondents, rather than from other minors.

Information provided by a King County stakeholder from 2019 showed that there were 22 referrals from King County law enforcement for violations of AHOs and 3 referrals for violations of SAPOs where the respondent was under age 18. Of those, three AHO referrals and one SAPO referral resulted in criminal charges for violation. We note that we cannot draw any conclusions from this data regarding criminal referrals in other counties, where prosecutors may have different filing standards.

### *C. Stakeholder Group Perspectives & Outreach*

Our stakeholder group considered the following topics with regard to youth protection order proceedings: initialing and sealing, sanctions, guardian ad litem and attorney appointments, and school transfers. Permitting or requiring civil protection order proceedings involving youth

to be held in juvenile court was also discussed; however, there was no consensus to broadly enact this permission.<sup>76</sup>

### **1. Initialing & Sealing**

Section 14(12) of E2SHB 1320<sup>77</sup> provides that “[m]inor children must only be referred to in [a protection order] petition and in all other publicly available filed documents by their initials<sup>78</sup> and date of birth.” The provision recognizes minors’ compelling interest in privacy, particularly when public documents are increasingly accessible online.<sup>79</sup> Many of our stakeholders support redaction and other measures to protect minors’ privacy, whether the minors are petitioners, respondents, or protected parties.<sup>80</sup> On the other hand, court administrator and clerk stakeholders raised concerns about implementation, including concerns about service of process, data entry, and enforcement: section 14(12) does not address whether it is limited to children who are not named parties, how law enforcement should effectuate service in the first instance, how county clerks can enter identifying information, or how school districts can identify minors involved. Finally, court rules and constitutional issues are implicated by sealing and use of initials in pleadings.

Article I, section 10, of the Washington Constitution provides that, “[j]ustice in all cases shall be administered openly.” Where this constitutional provision applies,<sup>81</sup> it prevents the

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<sup>76</sup> Juvenile courts hear juvenile offender adjudications, dependency matters, and CHINS/ARY matters. Proponents of moving protection order proceedings involving youth to juvenile court maintained that judicial officers assigned to such departments would have training or experience addressing juvenile participants, and that it would limit a youth’s exposure to adult content. On the other hand, other stakeholders contended that this would limit access. *See* Appendix J at pp. J 149.

<sup>77</sup> Codified as RCW 7.105.105(12), effective July 1, 2022.

<sup>78</sup> A distinction could be drawn between minors who are parties and cases where an adult is filing on behalf of themselves and any minors.

<sup>79</sup> Reagan, Robert Timothy, Sealing Court Records and Proceedings: A Pocket Guide, Federal Judicial Center (2010).

<sup>80</sup> *See* Appendix J at pp. J 149-150.

<sup>81</sup> Whether this constitutional provision applies to a given proceeding is determined according to the “experience and logic” test. *Doe G v. Department of Corrections*, 190 Wn.2d 185, 199-202 (2018) (Article I, section 10 applies to prevent use of pseudonyms for adult convicted sex offenders); *State v. S.J.C.*, 183 Wn.2d 408, 431, (2015)

legislature from enacting blanket sealing mandates.<sup>82</sup> Replacement of a party’s name with initials is a form of redaction and subject to the same court rules and constitutional limits applicable to sealing.<sup>83</sup> Consistent with Article I, section 10, a trial court must conduct an individualized analysis—weighing competing interests and affording all present the right to object—before sealing court records.<sup>84</sup> However, the legislature can authorize sealing under specified circumstances and, when it does so, that authorization will factor into the court’s individualized analysis.<sup>85</sup> Additionally, court rules apply to sealing, redaction and name requirements.<sup>86</sup>

Our stakeholders’ competing concerns could likely be addressed through development of more specific provisions addressing use of initials and/or sealing records in cases involving minors. In developing more specific provisions, the legislature should evaluate “open courts” requirements that originate in the Constitution and GR 15.

Given the limited timeline for consideration of these issues, we recommend additional stakeholder outreach on this issue.

## **2. Sanctions**

Protection orders are not intended to be punitive; they are intended to “provide necessary relief many victims require in order to escape and prevent harm.”<sup>87</sup> Regarding sanctions for

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(Article I, section 10 does not apply to sealing pursuant to statute of juvenile court records concerning offender adjudications).

<sup>82</sup> *Allied Daily Newspapers v. Eikenberry*, 121 Wn.2d 205, 209-12 (1993) (citing *Seattle Times v. Ishikawa*, 97 Wn.2d 30, 36-39 (1982)) (sealing statute unconstitutional where it prohibited case-specific balancing of interests and adherence to procedures required under Article I, section 10). In *State v. S.J.C.*, 183 Wn.2d 408, 431 (2015), our supreme court held that Article I, section 10, does not apply to juvenile court *records* (of offender adjudications) as distinct from juvenile court *proceedings*. See also GR 15.

<sup>83</sup> *Hundtofte v. Encarnacion*, 181 Wn.2d 1, 6-7 (2014) (citing GR 15(b)(4)); *Id.* at 24-26 (Gonzalez, J., dissenting).

<sup>84</sup> *Allied Daily Newspapers v. Eikenberry*, 121 Wn.2d 205, 209-12 (1993) (citing *Seattle Times v. Ishikawa*, 97 Wn.2d 30, 36-39 (1982)) (sealing statute unconstitutional where it prohibited case-specific balancing of interests and adherence to procedures required under Article I, section 10). See also GR 15 “Destruction, Sealing and Redaction of Court Records.”

<sup>85</sup> GR 15(c)(2)(A); *State v. Waldon*, 148 Wn. App. 952, 967 (2009).

<sup>86</sup> See GR 15; CR 10(a)(1) (requiring names of parties in a case caption in pleadings); GR 31 “Access to Court Records.”

<sup>87</sup> RCW 7.105.900(5).

violations of civil protection orders, three sanction schemes for enforcement and penalties currently exist across the various types of protection orders:

**DVPO, SAPO, SPO & VAPO:** Pursuant to E2SHB 1320, Sec. 56, violation of an order that one knows about is a gross misdemeanor and also subjects the respondent to penalties for contempt of court. On conviction, electronic monitoring may be imposed and the court may impose the costs on respondent after considering ability to pay. Any assault that is a violation of a protection order (DV, SAPO, SPO, VAPO) that does not amount to First and Second degree assault is a class C felony, as is any violation of such an order that is reckless and creates a substantial risk of death or serious physical injury, as is a violation of such an order with at least two previous convictions for violation of a protection order.

**AHO:** Pursuant to E2SHB 1320 Sec. 57(4), “[a]ny respondent under the age of 18 years who willfully disobeys the terms of an antiharassment protection order issued under this chapter may, in the court's discretion, be found in contempt of court and subject to the sanction specified in RCW 7.21.030(4), provided that the sanction specified in RCW 7.21.030(4)<sup>88</sup> [of up to seven days of confinement] may be imposed only for willful disobedience of the provisions listed in subsection (2) of this section.”

**ERPO:** Pursuant to E2SHB 1320, Sec. 58, possession of a firearm in violation of an ERPO is a gross misdemeanor and further results in prohibition of firearm for five years from the date the existing order expires. Violation is a Class C felony if there are two or more previous convictions for violating an order under this chapter. Pursuant to HB 1320, Sec. 39(1)(k), minors involved in ERPO proceedings may not be put on electronic monitoring, unlike adults.

The stakeholder group identified no consensus regarding sanctions when a respondent youth willfully violates a protection order.<sup>89</sup> Incarceration can be expected to create adverse results for youth.<sup>90</sup> Alternative interventions should be explored, and criminal sanctions should be a last resort after all other interventions have failed.

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<sup>88</sup> This section reads,

If the court finds that a person under the age of eighteen years has willfully disobeyed the terms of an order issued under \*chapter [10.14](#) RCW, the court may find the person in contempt of court and may, as a sole sanction for such contempt, commit the person to juvenile detention for a period of time not to exceed seven days.”

<sup>89</sup> See Appendix J at pp. J 150, 153-155.

<sup>90</sup> See e.g. Duarte, Catherine d. P. et. al., “Policy Determinants of Inequitable Exposures to the Criminal Legal System and Their Health Consequences Among Young People,” 110 AJP Law & Ethics S43 (2020).

Punitive responses should prioritize diversion over incarceration; however, compliance with orders is important for the health and wellbeing of youth survivors. When alternative therapies and community resources are recommended for respondent youth, programs must be able to show measurable change in behavioral patterns or change in some of the mediating or moderating factors associated with abusive behaviors.

Of note, legislative changes made in 2019 eliminated detention as a sanction for children who disobeyed truancy laws, and for at risk youth, child in need of services (CHINS/ARY), and children who fail to comply with dependency placement orders.<sup>91</sup> Those changes are in the process of being phased in (begin in 2020 and end in 2023).<sup>92</sup> When enacting these changes, the legislature found that “a stay in detention is a predictive factor for future criminal justice system involvement.”<sup>93</sup> This finding is supported by research, and it mirrors a growing recognition that community-based engagement programs may better serve both youth and public safety.<sup>94</sup> This general philosophy may inform the legislature’s approach to sanctions for violations of protection orders.

### **3. Guardian Ad Litem (GAL)/Attorney Appointments**

Youth are often unable to understand court proceedings or the collateral consequences of the entry of an order, and the stakes are high for both petitioners and respondents. Adolescents are far less able than adults to understand the nature of the legal proceedings, including the

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<sup>91</sup> Chapter 312, Laws of 2019.

<sup>92</sup> *Id.*

<sup>93</sup> *Id.*

<sup>94</sup> Trupin, Eric, PhD., and Puertolas, Mara Lucia, B.A., “Working to Reduce the Use of Secure Confinement: A Review of King County’s Children and Family Justice Center” (August 17, 2017) (incarceration has been found to exacerbate existing behavioral health conditions); McCarthy, Patrick et. al., “The Future of Youth Justice: A Community-Based Alternative to the Youth Prison Model,” National Institute of Justice and Harvard Kennedy School (2016), available at [https://www.hks.harvard.edu/sites/default/files/centers/wiener/programs/pcj/files/ntcc\\_the\\_future\\_of\\_youth\\_justice.pdf](https://www.hks.harvard.edu/sites/default/files/centers/wiener/programs/pcj/files/ntcc_the_future_of_youth_justice.pdf).

potential outcomes, the roles of key courtroom figures, the import of potential penalties, and the rights that are constitutionally guaranteed to them.<sup>95</sup>

Studies show that adolescents are at great risk of failing to comprehend fundamental aspects of the justice system, and that adolescents from disadvantaged backgrounds are at particular risk. For example, one study found that only 28% of sixteen-to eighteen year-old students living in areas with low rates of income and education understood that the right to remain silent protects them from being ordered to speak in a court room.<sup>96</sup> By comparison, 52% of students from middle-income backgrounds understood this fact.<sup>97</sup>

The stakeholder group considered appointment of GALs and counsel for minor petitioners. There is already a provision in the law that gives the court discretion to appoint GALs:

[s]ubject to the availability of amounts appropriated for this specific purpose, or as provided through alternative sources..., if the court deems necessary, the court may appoint a guardian ad litem for a petitioner or respondent under age 18 who are not represented by counsel. If a guardian ad litem is appointed, neither the petitioner nor the respondent shall be required by the court to pay any costs associated with the appointment.<sup>98</sup>

There is also a provision regarding appointment of counsel; however, it is limited to providing appointment for petitioners when the respondent is represented:

[s]ubject to the availability of amounts appropriated for this specific purpose, or as provided through alternative sources .... the court may appoint counsel to petitioner if respondent has counsel.<sup>99</sup>

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<sup>95</sup> See Thomas Grisso & Robert G. Schwartz, “Youth on Trial: A Developmental Perspective on Juvenile Justice” (2000). See also *In re Gault*, 387 U.S. 1, 38 n.65 (1967) (“The most informal and well intentioned of judicial proceedings are technical; few adults without legal training can influence or even understand them; certainly children cannot.”) quoting “Report of the President’s Comm’n on Law Enforcement and Administration of Justice,” *The Challenge of Crime in Free Society* 86-87 (1967).

<sup>96</sup> Shavaun M. Wall & Mary Furlong, “Comprehension of Miranda Rights by Urban Adolescents with Law Related Education,” 56 *Psychol. Rep.* 369, 366-68 (1985).

<sup>97</sup> *Id.*

<sup>98</sup> RCW 7.105.105(11).

<sup>99</sup> RCW 7.105.240.

Discussion regarding these discretionary appointments focused on resources—both of these discretionary appointment options are unfunded, and funding appropriations are likely needed to support these appointments and ensure geographic equity.<sup>100</sup> Additionally, stakeholders agreed that the appointment of attorneys for all youth petitioners and respondents could be beneficial, as GALs and attorneys have different ethical obligations to the represented person;<sup>101</sup> however, it was also noted that appointment of counsel in all youth cases would change the tenor of the proceedings from a “self-help” process to one that was more litigious and drawn out.<sup>102</sup>

#### **4. Education**

Pursuant to RCW 7.105.310(1)(h), judicial officers may impose school transfer as a remedy when granting a protection order:

In cases where the petitioner and the respondent are students who attend the same public or private elementary, middle, or high school, the court, when issuing a protection order and providing relief, shall consider, among the other facts of the case, the severity of the act, any continuing physical danger, emotional distress, or educational disruption to the petitioner, and the financial difficulty and educational disruption that would be caused by a transfer of the respondent to another school. The court may order that the respondent not attend the public or private elementary, middle, or high school attended by the petitioner. If a minor respondent is prohibited attendance at the minor's assigned public school, the school district must provide the student comparable educational services in another setting. In such a case, the district shall provide transportation at no cost to the respondent if the respondent's parent or legal guardian is unable to pay for transportation. The district shall put in place any needed supports to ensure successful transition to the new school environment. The court shall send notice of the restriction on attending the same school as the petitioner to the public or private school the respondent will attend and to the school the petitioner attends.

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<sup>100</sup> See Appendix J at p. 149.

<sup>101</sup> See GALR 2(a).

<sup>102</sup> *Id.*

The right to education inures to both victims and abusers. Male youth of color are disproportionately required to transfer schools,<sup>103</sup> creating educational disruption for students traditionally underserved by public education. Arguments against the current school transfer provisions include that school systems should handle these matters, which involve developmental considerations; that removal from the school environment should be a last resort; and that smaller districts lack the means to pay for transportation when school transfer is required.<sup>104</sup>

Arguments for the school transfer provision include concerns that schools often are not equipped to prioritize a victim's safety and respond appropriately to an abusive student.<sup>105</sup> The right to school safety is a high priority, and the law fails victims when abusers are not transferred, leaving the victim to decide to switch schools or drop out, and privately absorb the educational disruption to ensure their safety.

Though such measures are beyond the scope of E2SHB 1320, the legislature is encouraged to consider ways to improve school climates and educate students about bullying and sexual health to assist youth in their development and reduce the need for civil protection order proceedings. The legislature is encouraged to evaluate its legislation relevant to the public education system to address behaviors that lead students to seek protection orders.<sup>106</sup>

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<sup>103</sup> See e.g., Noguera, P.A. (2008) "What Discipline is for: Connecting students to the benefits of learning." In M. Pollock (Ed.), *Everyday antiracism: Getting real about race in school* (pp. 132-138). The New Press; Losen, D., Hewitt, D., & Toldson, I. (2014). *Eliminating excessive and unfair exclusionary discipline in schools: Policy recommendations for reducing disparities*. Bloomington, IN: The Equity Project at Indiana University. Available at [https://indrc.indiana.edu/tools-resources/pdf-disciplineseries/disparity\\_policy\\_031214.pdf](https://indrc.indiana.edu/tools-resources/pdf-disciplineseries/disparity_policy_031214.pdf).

<sup>104</sup> See Appendix J at pp. J 148-149; See also, Sparks, Sarah, "4 Myths About Suspensions That Could Hurt Students Long Term," *EducationWeek*, (August 26, 2021), available at <https://www.edweek.org/leadership/four-myths-about-suspensions-that-could-hurt-students-long-term/2021/08>. See also RCW 28A.225.030 (requires a filing of truancy after 7 unexcused absences, yet an ex parte order can remove a student for 14 days); RCW 28A.600.015 (Discipline statutes prohibit suspension and expulsion for bullying and harassment).

<sup>105</sup> See Appendix J at pp. J 148-149, 154.

<sup>106</sup> For example, a statewide cohort in Oregon is looking at implementation of best K-12 Title IX practices. [OR K12 Cohort](#). Provision of culturally appropriate and gender inclusive training within schools can be considered that would address bullying, harassment and violence, including consent, healthy relationship skills, and bystander intervention. This would include training of school staff to respond, support, and follow up with students impacted by harassment or bullying based on actual or perceived sexual orientation, gender identity, racial identity, and religious affiliation.

### ***D. Recommendations***

- There was consensus that initialing/sealing provisions would better protect the privacy of youth petitioners and respondents. Additional input is recommended on this topic.
- The stakeholder group also considered the topics of sanctions, education, appointment of guardians ad litem and legal counsel, and venue, but there was not consensus around specific recommendations for those issues within the context of civil protection orders.

## **VI. Coercive Control**

*“By ignoring or minimizing the tactics used in coercive control, current domestic violence laws also miss many of its most devastating effects. There is mounting evidence that the level of ‘control’ in abusive relationships is a better predictor than prior assaults of future sexual assault and of severe and fatal violence. This is because coercive control targets a victim’s autonomy, equality, liberty, social supports and dignity in ways that compromise the capacity for independent, self-interested decision-making vital to escape and effective resistance of abuse. Moreover, in a significant minority of abuse cases, offenders are able to subjugate and entrap female partners without the use of violence. Arrest for assaults, the provision of shelter or legal protections against violence are vital for short-term safety. But the long-term safety and independence of battered women can only be secured if current protections against domestic violence are extended to encompass coercive control.”*

– Dr. Evan Stark, excerpted from his article  
“Re-presenting Battered Women: Coercive Control and the Defense of Liberty” (2012)

Pursuant to E2SHB 1320 Sec. 36(g), this stakeholder group was asked to assess “how the civil protection order law can more effectively address the type of abuse known as ‘coercive control’...”<sup>107</sup> In response to this directive, we solicited input through: (1) a statewide survey of victims’ advocates and attorneys;<sup>108</sup> (2) a listening tour conducted by the Washington State

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Such measures could reduce the number of matters filed in court. The legislature could also consider mandatory data collection in schools, beyond current Title IX requirements, (while complying with FERPA) regarding incidents of harassment, assault, domestic violence and stalking, including enforcement of civil protection orders at schools. *See also*, De La Rue L, Polanin JR, Espelage DL, Piggot T. D. “School-based Interventions to Reduce Dating and Sexual Violence: A Systematic Review.” *Campbell Systematic Reviews* 2014;7 DOI: 10.4073/csr.2014.7.

<sup>107</sup> Chapter 215, Laws of 2021 at pp. 57-58.

<sup>108</sup> Appendix C at Q4-11, pp. C 14-30.

Women’s Commission (WSWC);<sup>109</sup> and (3) outreach conducted by the Washington State Coalition Against Domestic Violence (WSCADV).<sup>110</sup> We also devoted two full stakeholder meetings to the subject of coercive control, on August 27 and September 8, 2021;<sup>111</sup> consulted research literature and journalism on the subject; and surveyed coercive control-related legislation passed or proposed in other states.

While the stakeholder group did not achieve a perfect consensus regarding a statutory amendment, a majority of the stakeholders strongly supported expanding the civil protection order statute’s definition of domestic violence to include coercive control. And among our victim advocate stakeholders, there was unanimous agreement as to one underlying fact: coercive control is a pervasive phenomenon in the lives of domestic violence survivors.<sup>112</sup>

### ***A. Understanding Coercive Control***

The term, “coercive control,” was popularized by sociologist Evan Stark in his 2007 book, *Coercive Control: The Entrapment of Women in Personal Life*,<sup>113</sup> but its use by

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<sup>109</sup> See Appendix D, *H.B.1320 Civil Protection Orders Listening Forum Report* (September-October 2021). The Washington State Women’s Commission partnered with the Gender and Justice Commission to hold statewide listening sessions with advocates and survivors. There were 54 participants in the listening sessions which were held remotely and covered Spokane, Whatcom County, Bellingham, Yakima, Walla Walla, King, Pierce, Thurston, and Clark Counties. The *Listening Forum Report* at Appendix D details the feedback received at these sessions.

<sup>110</sup> See Appendix K, *Coercive Control Legislation Membership Input Report* (October 2021). WSCADV engaged 115 staff members from 39 domestic violence member programs in multiple virtual formats including one-on-one meetings, legal advocate gatherings, and listening sessions to solicit their input about coercive control. Participants included member program executive directors, deputy directors, preventionists, legal advocates, legal advocacy managers and coordinators, bilingual legal advocates, family law legal advocates, health educators, and program supervisors (collectively referred to as “advocates” in the report). This engagement was done between February – October 2021, and represented counties include Clark, Pierce, King, Benton, Franklin, Kitsap, Walla Walla, Thurston, Clallam, Cowlitz, Lewis, Island, Kittitas, Mason, Whatcom, Skagit, Grays Harbor, Snohomish, Spokane, Grant, Pend Oreille, Okanogan, Skamania, Whitman, Chelan, Jefferson, Stevens, Ferry, and Lincoln.

<sup>111</sup> Appendix J at pp. J 137-146.

<sup>112</sup> Out of 36 advocate / attorney survey responses, 94.44% described coercive control as *very prevalent* in their clients’ cases; 5.56% indicated it was *somewhat prevalent*; and no responses indicated that coercive control is *not prevalent* in their clients’ cases. Appendix C at Q5, p. C 18; WSCADV Report, Appendix K, at pp. K 164-165; WSWC Report, Appendix D at p. D 44.

<sup>113</sup> Stark, Evan, *Coercive Control: The Entrapment of Women in Personal Life*, Oxford University Press (2007); Ryzik, Melena and Benner, Katie, “What Defines Domestic Abuse? Survivors Say It’s More Than Assault,” *New York Times*, Jan. 22, 2021. See also Stark, Evan, “Re-presenting Battered Women: Coercive Control and the Defense of Liberty,” Prepared for *Violence Against Women: Complex Realities and New Issues in a Changing*

researchers and domestic violence victim advocates long predates that publication.<sup>114</sup> Experts use the term to describe a form of intimate partner abuse, which may or may not include physical violence, whereby the perpetrator achieves a psychologically devastating dominance over the victim.<sup>115</sup> A coercive controlling abuser erodes the victim's sense of freedom and autonomy, often by exploiting both social inequity (e.g., due to institutional or cultural misogyny, immigration laws, or poverty) and the intimate nature of the relationship itself.<sup>116</sup> As Stark puts it, monitoring and regulation of a woman's common daily life is the hallmark of coercive control:

[Coercive control] tactics include forms of constraint and the monitoring and/or regulation of commonplace activities of daily living, particularly those associated with women's default roles as mothers, homemakers and sexual partners and run the gamut from their access to money, food and transport to how they dress, clean, cook or perform sexually.<sup>117</sup>

Survivors and their advocates have widely embraced the concept of coercive control because, relative to a traditional legal definition of domestic abuse focused on discrete incidents of physical violence, the coercive control framework more accurately and comprehensively describes the dynamics of intimate partner abuse.<sup>118</sup>

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*World*, Les Presses de l'Université du Québec (2012), at 3 ("This pattern, which may include but is not limited to physical violence, has been variously termed psychological or emotional abuse, patriarchal or intimate terrorism . . . and coercive control . . . , the term I prefer.")

<sup>114</sup> See, e.g., Dutton, et al., "Development and Validation of a Coercive Control Measure for Intimate Partner Violence," Final Technical Report, *Cosmos Corporation* (2005), Executive Summary at 1-2.

<sup>115</sup> Stark, Evan, "Re-presenting Battered Women: Coercive Control and the Defense of Liberty," Prepared for *Violence Against Women: Complex Realities and New Issues in a Changing World*, Les Presses de l'Université du Québec (2012), at 4.

<sup>116</sup> Nonomura, et al., "Coercive Control," *Family Violence & Family Law Brief* (3), Centre for Research & Education on Violence Against Women & Children (Ontario, 2021); Stark, Evan, "Re-presenting Battered Women: Coercive Control and the Defense of Liberty," Prepared for *Violence Against Women: Complex Realities and New Issues in a Changing World*, Les Presses de l'Université du Québec (2012), at 4; See also "Development and Validation of a Coercive Control Measure for Intimate Partner Violence," Final Technical Report, *Cosmos Corporation* (2005), Executive Summary at 3-7.

<sup>117</sup> Stark, Evan, "Re-presenting Battered Women: Coercive Control and the Defense of Liberty," at 4.

<sup>118</sup> See, e.g., Crossman, Kimberly and Hardesty, Jennifer, "Placing Coercive Control at the Center: What Are the Processes of Coercive Control and What Makes Control Coercive?" *Psychology of Violence*, Vol. 8, No. 2 (2018) at 196-97 (distinguishing coercive controlling intimate partner violence from "situational" intimate partner violence);

As noted in the introduction, our stakeholders reported that they frequently encounter survivors who are experiencing coercive control. Drawing on their work in protection order cases, respondents to our statewide victim advocate survey provided the following examples of coercive controlling perpetrator behaviors:

Isolating the victim from their friends and family, including taking and/or disabling the victim’s cellphone or computer and/or cancelling the victim’s cellphone service <sup>119</sup>
Monitoring the victim’s use of time and/or activities <sup>120</sup>
Depriving the victim of their basic needs or access to support services <sup>121</sup>
Maintaining control over the victim and/or children’s identity documents, including immigration documents <sup>122</sup>
Controlling what a victim wears <sup>123</sup>
Firearms-- Purposely storing loaded and unsecured firearms in a home, cleaning firearms during or after an argument, wearing a firearm in a holster around the home or sharing stories of prior incidents where they have used firearms to threaten or harm someone else <sup>124</sup>
Repeated and targeted verbal abuse or verbal attacks to undermine victims’ confidence and self-esteem, for example, telling them they are “crazy,” “stupid,” or “worthless” <sup>125</sup>
Enforcing rules and activities which humiliate, degrade, or dehumanize the victim (e.g. not allowing the survivor to close the door when using the bathroom or showering or using security cameras in the home to monitor the victim while limiting access to the security camera controls so the abuser can monitor what they are doing and ensure they are not reaching out to anyone for help.) <sup>126</sup>
Use of threats, intimidation, or coercion to force the victim to take part in criminal activity such as shoplifting, driving a “get away” car, illegal substance use, neglect or abuse of children and preventing disclosure to authorities <sup>127</sup>
Financial abuse including control of finances, such as only allowing the victim a punitive allowance, stealing victim’s paycheck or benefits check and depositing in abuser’s account, or causing the victim to incur additional debts with the intention of ruining the victim’s credit (making it harder to leave or obtain a new lease) <sup>128</sup>

Hannah, Mo Therese and Goldstein, Barry, “Domestic Violence, Abuse, and Child Custody: Legal Strategies and Policy Issues,” Civic Research Institute, NJ (2010), at chapter 11, p. 11-16.

<sup>119</sup> Appendix C at Q4, pp. C 14-17, responses 5, 8-13, 16-18, 20, 24-33.

<sup>120</sup> *Id.*, responses 3, 7, 9-10, 16-17, 19, 23, 25, 27, 29.

<sup>121</sup> *Id.*, responses 1, 3-6, 8-13, 15-18, 20, 22, 24, 27-30, 32-34, 36.

<sup>122</sup> *Id.*, responses 8, 15, 17-18, 28.

<sup>123</sup> *Id.*, response 9.

<sup>124</sup> Examples provided by stakeholders from cases they have worked on.

<sup>125</sup> *Id.*, responses 3, 6, 9, 11-12, 14, 17, 19-20, 22, 24, 31, 35.

<sup>126</sup> *Id.*, responses 9, 28.

<sup>127</sup> *Id.*, response 14.

<sup>128</sup> *Id.*, responses 1, 5-6, 9-13, 15-20, 24, 26-28, 31, 33-36.

Credible threats to reveal or publish private information about the victim, including photos <sup>129</sup>
Misusing systems to harass, control or intimidate the victim, such as: reporting the non-abusive party to immigration authorities if they lack proper documentation, or making baseless / frivolous report to Child Protective Services (CPS) or engaging in vexatious litigation <sup>130</sup>
Preventing the victim from having access to transportation or monitoring how many miles they drive <sup>131</sup>
Preventing the victim from working or causing the victim to lose employment or housing <sup>132</sup>
Using threats, intimidation, and coercion to control reproductive choices, sabotaging birth control, forced pregnancies or forced abortions <sup>133</sup>
Using pressure, tricks, or threats to coerce the victim to engage in sexual activity <sup>134</sup>

Relative to the behaviors listed above, the behaviors constituting “domestic violence” under Washington’s protection order statute are more limited. They include only conduct, such as assault, rape, harassment, stalking, and infliction of fear of physical violence that is elsewhere criminalized in Washington’s Revised Code:

“Domestic violence” means:

(a) Physical harm, bodily injury, assault, or the infliction of fear of physical harm, bodily injury, or assault; nonconsensual sexual conduct or nonconsensual sexual penetration; unlawful harassment; or stalking of one intimate partner by another intimate partner; or

(b) [the same conduct perpetrated against] one family or household member by another family or household member.

RCW 7.105.010(8).

This discrepancy between the lived experience of victims and the legal definition of domestic violence has been recognized in Washington’s *Domestic Violence Bench Guide for*

<sup>129</sup> *Id.*, responses 19, 30.

<sup>130</sup> *Id.*, responses 3, 6, 8, 13, 15-16, 18-19, 21, 28, 35.

<sup>131</sup> *Id.*, responses 3-4, 6, 9, 11, 15, 17, 19, 22, 27, 29, 32-34, 36.

<sup>132</sup> *Id.*, responses 3-4, 11-13, 16, 19, 27-28.

<sup>133</sup> *Id.*, responses 4, 8, 11, 13, 16, 28, 30.

<sup>134</sup> *Id.*, responses 16, 28; Appendix L.

*Judicial Officers* since at least 2001.<sup>135</sup> Chapter 2 of the current Bench Guide contrasts the “Behavioral Definition of DV” with our State’s legal definition, describing the former as “a pattern of assaultive and coercive behaviors” including “psychological attacks, as well as economic coercion” and encompassing “both criminal and non-criminal conduct.”<sup>136</sup> The Bench Guide cautions judicial officers that, unlike the legal definition of domestic violence, the behavioral definition is more extensive and focuses on patterns:

[A behavioral definition] include[es] both criminal and non-criminal acts, injurious and non-injurious acts. While the criminal justice and sometimes even the civil court proceedings tend to focus on individual events, it is the entire pattern of the perpetrator’s conduct that shapes how the abused party, their children, and the abuser are affected and function. . . . The entire pattern of the DV perpetrator’s conduct needs to be considered as civil and criminal courts deliberate about the most appropriate findings, sanctions, and court orders for a case involving DV.<sup>137</sup>

### ***B. Engrossed Second Substitute House Bill 1320***

The gap between the behavioral and legal definitions of domestic violence has led many to question the efficacy of laws focusing solely on what Stark calls the “violent-incident model of abuse.”<sup>138</sup> To date, Hawaii,<sup>139</sup> Connecticut,<sup>140</sup> California,<sup>141</sup> and several jurisdictions in the

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<sup>135</sup> *Domestic Violence Manual for Judges* (2001); *Domestic Violence Bench Guide for Judicial Officers* (2015) (DV Bench Guide), Chapter 2, available at

<http://www.courts.wa.gov/content/manuals/domViol/Complete%20Manual%202015.pdf>.

<sup>136</sup> DV Bench Guide, Chapter 2, at 4.

<sup>137</sup> DV Bench Guide, Chapter 2, at 5. The definition of domestic violence in Chapter 70.123 RCW, which governs the administration of state-supported shelters for victims of domestic violence, also recognizes “psychological abuse” as covered conduct, provided it is “part of a pattern of assaultive, coercive, and controlling behaviors directed at achieving compliance or control over [the victimized] intimate partner.” That definition has been in effect since 2015. Laws of 2015, ch. 75 § 2.

<sup>138</sup> Stark (2012), at 7 (“The third problem with the violent incident model is that between 60% and 80% of the victims who seek outside assistance are experiencing multiple tactics to frighten, isolate, degrade and subordinate them as well [as] assaults and threats. . . . But most of these tactics are not crimes and almost none are included in current domestic violence laws, assessments or charges.”).

<sup>139</sup> HB 2425.

<sup>140</sup> SB-1091: <https://cga.ct.gov/2021/ACT/PA/PDF/2021PA-00078-R00SB-01091-PA.PDF>.

<sup>141</sup> SB 114.1.

United Kingdom<sup>142</sup> have enacted laws that either criminalize coercive control or incorporate it into the civil definition of domestic violence.

As originally proposed, Washington’s HB 1320 would have expanded the definition of “domestic violence” applicable in civil protection order proceedings to include “coercive control,” defined as:

a pattern of behavior that in purpose or effect unreasonably interferes with a person's free will and personal liberty and is used to cause another to suffer physical or psychological harm. Examples of coercive control include, but are not limited to, unreasonably engaging in any of the following:

- (a) Making threats of harm, dependence, isolation, intimidation, and/or physical forms of violence;
- (b) Isolating the other party from friends, relatives, or other sources of support;
- (c) Depriving the other party of basic necessities or committing other forms of economic abuse;
- (d) Controlling, regulating, or monitoring the other party's movements, communications, daily behavior, finances, economic resources, or access to services;
- (e) Compelling the other party by force, threat of force, or intimidation, including threats based on actual or suspected immigration status such as threats to contact federal agencies, to engage in conduct from which the other party has a right to abstain or to abstain from conduct in which the other party has a right to engage;
- (f) Using technology, including, but not limited to, cyberstalking, monitoring, surveillance, impersonation, or distribution of intimate images, to harass, stalk, or abuse;
- (g) Engaging in vexatious or abusive litigation against a petitioner to harass, coerce, or control the petitioner; to diminish or exhaust the petitioner's financial resources; or to compromise the petitioner's employment or housing;

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<sup>142</sup> England (<https://www.legislation.gov.uk/ukpga/2015/9/section/76/enacted>); Ireland (<https://www.irishstatutebook.ie/eli/2018/act/6/section/39/enacted/en/html>); and Scotland (<https://www.independent.co.uk/news/uk/home-news/domestic-abuse-scotland-law-psychological-coercive-control-a8848916.html>) have all enacted laws criminalizing coercive control.

- (h) Engaging in psychological aggression; and
- (i) Frightening, humiliating, degrading, or punishing the other party.

Before passage, however, all references to “coercive control” were stricken from the bill after concerns were raised that perpetrators might use an expanded definition of domestic violence in abusive litigation against survivors, i.e., by making counter-allegations against petitioners based on alleged behaviors short of violence and fear for physical safety.<sup>143</sup> It was determined that the legislature should seek more statewide engagement. Ultimately, the expanded definition was replaced with the following directive:

The administrative office of the courts, through the gender and justice commission of the Washington state supreme court, and with the support of the Washington State women’s commission, shall work with representatives of superior, district, and municipal court judicial officers, court clerks, and administrators, including those with experience in protection order proceedings, as well as advocates and practitioners with expertise in each type of protection order, and others with relevant expertise, to consider and develop recommendations regarding:

...

Assessing how the civil protection order law can more effectively address the type of abuse known as “coercive control” so that survivors can seek earlier protective intervention before abuse further escalates.<sup>144</sup>

### ***C. Stakeholder Perspectives***

As a preliminary matter, it should be noted that the directive in E2SHB 1320 appears to contemplate a timeline of abuse, beginning with coercive control and later “escalat[ing]” to physical abuse,<sup>145</sup> but that construct is not supported by the scholarship our stakeholder group consulted. To be clear, multiple studies *do* find a correlation between a perpetrator’s highly

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<sup>143</sup> See, *infra*, Section D Caveats and Concerns (pp. 56-58), for additional discussion.

<sup>144</sup> Chapter 215, Laws of 2021 at pp. 57-58.

<sup>145</sup> Chapter 215, Laws of 2021 at pp. 57-58 (tasking stakeholder group with “[a]ssessing how the civil protection order law can more effectively address the type of abuse known as “coercive control” so that survivors can seek earlier protective intervention before abuse further escalates.”).

controlling behavior and the victim’s increased risk of serious injury (including fatal injury) after separation.<sup>146</sup> And highly controlling behaviors have been found to be “predictive” of physical violence in the sense that the two forms of abuse are statistically likely to coincide.<sup>147</sup> But there is no apparent consensus that coercive control typically *precedes* physical violence, on a continuum of escalation, in the context of an existing abusive intimate relationship.<sup>148</sup> Indeed, our stakeholders observed that the opposite may be true: one violent incident may be enough to ensure the victim’s compliance thereafter.<sup>149</sup>

Accordingly, the stakeholders we consulted did not generally endorse the view that codifying “coercive control” would allow courts to catch intimate partner abuse before it inevitably evolved into physical violence.<sup>150</sup> Instead, proponents generally cited two other

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<sup>146</sup> Johnson, et al., “Intimate Femicide: The Role of Coercive Control,” *Feminist Criminology*, 2019, Vol. 14(1) 3-23, at 4-7 (surveying studies, noting that while a history of escalating physical violence remains the strongest predictor of intimate partner homicide, “it is absent in a sizable minority,” and that “[t]he context in which a great many femicides take place is one of male dominance and control which is manifested in . . . threats to kill that are often triggered by loss of control due to impending separation or real or imagined infidelity”); Beck, Connie and Raghavan, Chitra, “Intimate Partner Abuse Screening in Custody Mediation: The Importance of Assessing Coercive Control,” *Family Court Review*, 48, 555-565; Glass, Nancy, et al., “Risk for Intimate Partner Femicide in Violent Relationships,” *Domestic Violence Report*, Vol. 9, No. 2 (2004), at 30.

<sup>147</sup> See Graham-Kevan, Nicola and Archer, John, “Does Controlling Behavior Predict Physical Aggression and Violence to Partners?” *J. Fam. Viol.* (2008) 23:539-548.

<sup>148</sup> See, e.g., Beck, Connie and Raghavan, Chitra, “Intimate Partner Abuse Screening in Custody Mediation: the Importance of Assessing Coercive Control,” *Family Court Review*, 48, 555-565 (“Furthermore, once the [highly controlling] perpetrator has established that he is a legitimate source of threat, he is unlikely to need to use high levels of physical abuse to induce compliance.”) Johnson, et al., “Intimate Femicide: The Role of Coercive Control,” *Feminist Criminology*, 2019, Vol. 14(1) 3-23, at 19 (“The results of this study show that it is important to distinguish between violence as defined by criminal law and abusive behaviors that degrade and instill fear and that, although coercion and control often form part of a constellation of violence and abuse, behaviors that effectively entrap and isolate female partners *while obviating the need for ongoing and escalating assaults* may pose an even greater danger.”) (Emphasis added.) See also Boxall, Hayley and Lawler, Siobhan, “How does domestic violence escalate over time?”, Australian Institute of Criminology, *Trends and Issues in Crime and Criminal Justice*, Issue 626 (2021) (international research survey, noting that despite a “key assumption in the domestic violence literature that abuse escalates in severity and frequency over time . . . there is no consensus on how escalation should be defined”).

<sup>149</sup> *Id.*

<sup>150</sup> Some survey respondents indicated that coercive control could be a precursor to physical or “escalating” violence. See Appendix C at Q8, pp. C-23-25, responses 17, 19, 25, 33. It is unclear whether these respondents observed this to be true in the context of separation or more generally. A greater number of respondents described coercive control as tending to coincide with physical violence and / or surpass physical violence in its lasting harmful impact on the victim. *Id.*, responses 3-4, 6, 10, 14, 16, 20, 22, 27, 29, 32, 34-35.

reasons to incorporate the concept of coercive control into Washington’s civil protection order statute. First, our advocate-stakeholders agreed that coercive control is profoundly harmful in and of itself, regardless of its coincidence with physical violence or other criminal conduct.<sup>151</sup> Second, victims of coercive controlling abuse may be among those most at risk of extreme violence, including fatal violence, *when they attempt to leave the relationship*.<sup>152</sup>

While the definition of domestic violence in the protection order statute already includes two kinds of non-physical abuse—stalking and unlawful harassment<sup>153</sup>—our stakeholders agreed that these terms fail to capture the range of behaviors typical of coercive controlling abuse.<sup>154</sup> Many advocate-stakeholders reported that courts were reluctant to consider evidence of behaviors not meeting the legal definition of domestic violence, even as background facts for a petition alleging physical violence.<sup>155</sup> And a majority believed this resulted in petitioners being erroneously discredited or denied necessary protection—even when they alleged behaviors known to be correlated with an increased risk of lethality.<sup>156</sup>

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<sup>151</sup> *Id.*, responses 3-4, 6, 10, 14, 16, 20, 22, 27, 29, 32, 34-35; Appendix J at p. J 145.

<sup>152</sup> See Johnson, et al., at 4-7; Beck, Connie and Raghavan, Chitra, at 30.

<sup>153</sup> Unlawful harassment was added in the recent amendment. Compare Laws of 2021, ch. 215, § 2(8) with Laws of 2019, ch. 263, §204(3).

<sup>154</sup> Through stakeholder group discussion, we also learned that amending the domestic violence definition to include coercive control would allow survivor parents to address this form of abuse in family law proceedings involving children. Pursuant to RCW 26.09.191, a finding of domestic violence against a parent allows a family court to limit the perpetrator’s decision-making and residential time, require counseling or treatment, and allow survivors to opt out of the otherwise mandatory dispute resolution process. Currently, because coercive control is not included in the civil definition of domestic violence, survivors with children who leave their abusive partners have no grounds to seek such restrictions unless there is physical abuse, sexual abuse, stalking, or harassment that meets the legal definition of domestic violence. See Appendix L.

<sup>155</sup> Appendix C at Q7, pp. C 20-22, responses 3-10, 12-13, 15-17, 20, 23, 25-29, 31-34; See also Q8 at pp. C 23-25, response 15. There was consensus among our judicial officer stakeholders that adding coercive control to the civil definition of domestic violence would ensure judges’ ability to grant a protection order to a petitioner seeking relief for non-physical coercive and controlling behaviors. Currently, they are constrained by the narrow legal definition of domestic violence. See also Appendix J at pp. J 137-146 and Appendix K, at pp. K 164-165.

<sup>156</sup> Overall, 91.67% of survey responders opined that courts *should consider coercive control* to rule on civil protection order petitions, 8.33% were *unsure*, and no responders *opposed consideration of coercive control*. See also, Appendix D at D 44: “When asked whether coercive control should be included in the legal definition of domestic violence, the overwhelming majority of participants, across the state, agreed that coercive controlling behavior needed to be given more judicial weight than currently being considered by civil protection order courts.”

Expanding the definition of domestic violence to include coercive control would empower judicial officers to provide relief based on such behaviors, and to obtain more information about the respondent’s behaviors and tailor the scope or conditions in a protection order to address specific tactics. For example, high levels of coercive controlling behavior might indicate a longer term or indefinite order, larger distance restraints, or specific restraints relating to technological or financial abuse.

*“While some of our clients have never suffered physical abuse, ALL our clients have suffered coercive control. It’s pervasive, and most abusers are experts in continuing to control their victims this way even after separation, for years.”*

- WSCADV member input

In short, both our advocate- and judicial officer-stakeholders largely agreed that, in the interests of public health and safety, the DVPO statute should be tailored to address DV-specific issues and behaviors including coercive control.<sup>157</sup>

#### ***D. Caveats and Concerns***

*“Deciding what constitutes coercive control depends a lot on the context of a situation or relationship, beyond the context of a particular incident. We worry that this would be a subjective decision that would be tainted by the biases of police and judicial staff.”*

*“Abusers [are] claiming a survivor has isolated them or is emotionally abusive. We are commonly seeing abusers say the survivor is isolating them from their kids and turning kids against them. Coercive control can be mixed up with parental alienation syndrome that survivors get accused of.”*

- WSCADV Members’ Input

Many survey responses (82.35%) indicated a concern that the concept of coercive control *could be used against survivors in court.*<sup>158</sup> This concern was echoed in both the WSCADV and WSWC reports.<sup>159</sup> Explanations generally included that the survivor’s defensive tactics—for example, physically resisting abuse, safety planning to protect children, and taking steps to accumulate finances to leave the relationship—could be cited by abusers to

<sup>157</sup> Appendix J at pp. J 137-146.

<sup>158</sup> Appendix C at Q9, p. C 26.

<sup>159</sup> WSCADV Report, Appendix K, pp. K 166-167 (noting member concern that a codified definition of coercive control could be used in abusive litigation); WSWC Report, Appendix D, pp. 4-5 (noting participant concern that “if the definition is not carefully constructed, survivors could fall victim to unintended and unforeseen consequences,” like those resulting from Washington’s mandatory arrest law).

support a bad faith counter-accusation, or to characterize the survivor as unstable, delusional and not credible.<sup>160</sup>

As a counterpoint to this concern, other stakeholders noted that abusers will always attempt to use the definition of domestic violence against their victims, no matter what that definition is.<sup>161</sup> Among the survivors and other stakeholders we consulted, the prevailing view was that concerns about bad faith allegations should not dissuade the legislature from adding coercive control to the domestic violence definition.<sup>162</sup> And many expressed the view that judicial training could help to reduce the efficacy of bad faith counter-accusations.<sup>163</sup>

Some stakeholders observed that there is no legislative mechanism to ensure judicial training. Judicial stakeholders noted that mandatory training imposed by the legislature would implicate the separation of powers doctrine. The legislature could allocate funding, however, for use by the judicial branch to develop the robust training critical for courts to successfully implement an expanded definition of domestic violence that includes coercive control. Stakeholders expressed concern that adding a description of coercive control to the definition of domestic violence would not meaningfully improve the courts' ability to recognize survivors' experiences of abuse without significant investment in judicial education.

*“My big thing is that I really, really want the courts to be compelled to learn about the dynamics of domestic violence, all the aspects of it ... until they get additional education, they will likely make wrong decisions. I think especially when it's not the traditional scenario, like when you have a same sex couple.”*

*– DV Advocate (WSWC report)*

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<sup>160</sup> See e.g. Senate Law & Justice Committee testimony by WSCADV Executive Director, Judy Chen. 11/15/21 at 58:58, available at <https://www.tvw.org/watch/?eventID=2021111043>.

<sup>161</sup> Appendix J at p. J 138.

<sup>162</sup> *Id.* See also Appendix C at Q11, p. C 30; Appendix D, pp. D 44-46.

<sup>163</sup> *Id.*

*“Abusers are already using the system. They are already manipulating the system. This is not about expanding the abuser’s power through adding coercive control. This is making sure victims and survivors have more tools and resources available. Let’s stop just focusing on what abusers can do and can we really focus on what survivors are saying that they need.”*

-WSWC participant

Finally, no stakeholder group wanted coercive control to be criminalized, but some expressed concerns that a civil legal definition change could lead to support for legislation that seeks to criminalize coercive control.<sup>164</sup>

### ***E. Looking to Other Jurisdictions***

As noted above, several jurisdictions have recently amended their criminal codes or civil protection order statutes to include coercive control in the definition of “domestic

violence.” These include Hawaii, Connecticut, and California.

While the definition of “coercive control” in these statutes varies, they all entail limiting language to distinguish covered conduct from defensive tactics or incidental relationship conflict. Hawaii and California limit “coercive control” to a “pattern” of conduct, as opposed to isolated incidents. California and Connecticut limit covered conduct to that which is objectively “unreasonable.” And all three statutes provide a non-exclusive list of example behaviors.<sup>165</sup>

#### **1. Hawaii**

In 2020, Hawaii added “coercive control” to its definition of domestic abuse.<sup>166</sup> Under this new legislation, “‘coercive control’ means a pattern of threatening, humiliating, or intimidating actions, which may include assaults, or other abuse that is used to harm, punish, or frighten an individual. ‘Coercive control’ includes a pattern of behavior that seeks to take away

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<sup>164</sup> Appendix J at p. J 145.

<sup>165</sup> See Johnson, Michael P., “Intimate Terrorism, Violent Resistance, and Situational Couple Violence,” Northeastern University Press (2008), at 88 (“Everyone ‘controls’ their partner to some extent in an intimate relationship; after all, a relationship by definition involves mutual influence. What we need is a way to assess the amount of *coercive* control that an individual exercises in the relationship.”); Please also refer to Appendix Q for the Power and Control Wheel, which was created by the Domestic Abuse Intervention Project in 1984. It is a tool to help portray the overall pattern of abusive and violent behaviors.

<sup>166</sup> Haw. Rev. Stat. § 586-1 (2020).

the individual's liberty or freedom and strip away the individual's sense of self, including bodily integrity and human rights, whereby the 'coercive control' is designed to make an individual dependent by isolating them from support, exploiting them, depriving them of independence, and regulating their everyday behavior including:

- (1) Isolating the individual from friends and family;
- (2) Controlling how much money is accessible to the individual and how it is spent;
- (3) Monitoring the individual's activities, communications, and movements;
- (4) Name-calling, degradation, and demeaning the individual frequently;
- (5) Threatening to harm or kill the individual or a child or relative of the individual;
- (6) Threatening to publish information or make reports to the police or the authorities;
- (7) Damaging property or household goods; and
- (8) Forcing the individual to take part in criminal activity or child abuse.”

On July 8, 2021, Hawaii also passed HB 566 which criminalizes “coercive control” by including it as a petty misdemeanor.<sup>167</sup> This bill contains a sunset clause; it will be repealed on June 30, 2026.<sup>168</sup>

## **2. California**

In 2020, pursuant to Senate Bill No. 1141, California amended Section 6320 of its Family Code to include “coercive control” among behaviors that “disturb the peace” of the other party for purposes of seeking a civil protective order:

- (c) As used in this subdivision (a), “disturbing the peace of the other party” refers to conduct that, based on the totality of the circumstances, destroys the mental or emotional

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<sup>167</sup> [https://www.capitol.hawaii.gov/session2021/bills/HB566\\_SD1\\_.pdf](https://www.capitol.hawaii.gov/session2021/bills/HB566_SD1_.pdf).

<sup>168</sup> *Id* at Section 4. *See also* Hofschneider, Anita, “Lawmakers Consider Adding ‘Coercive Control’ In Domestic Violence Cases,” *Honolulu Civil Beat* (April 5, 2021), available at: <https://www.civilbeat.org/2021/04/lawmakers-consider-adding-coercive-control-in-domestic-violence-cases/>.

calm of the other party. This conduct may be committed directly or indirectly, including through the use of a third party, and by any method or through any means including, but not limited to, telephone, online accounts, text messages, internet-connected devices, or other electronic technologies. This conduct includes, but is not limited to, coercive control, which is a pattern of behavior that in purpose or effect unreasonably interferes with a person’s free will and personal liberty. Examples of coercive control include, but are not limited to, unreasonably engaging in any of the following:

- (1) Isolating the other party from friends, relatives, or other sources of support.
- (2) Depriving the other party of basic necessities.
- (3) Controlling, regulating, or monitoring the other party’s movements, communications, daily behavior, finances, economic resources, or access to services.<sup>169</sup>
- (4) Compelling the other party by force, threat of force, or intimidation, including threats based on actual or suspected immigration status, to engage in conduct from which the other party has a right to abstain or to abstain from conduct in which the other party has a right to engage.

### **3. Connecticut**

In 2021, pursuant to Public Act No. 27-78,<sup>170</sup> Connecticut amended its definition of domestic violence to include coercive control. “Coercive control” includes, but is not limited to, unreasonably engaging in any of the following:

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<sup>169</sup> Cal. Fam. Code § 6220 and § 6320 (2020).

<sup>170</sup> Conn. Gen. Stat. § 46b-1 (2020), available at <https://www.cga.ct.gov/2021/act/pa/pdf/2021PA-00078-R00SB-01091-PA.pdf>.

- (A) Isolating the family or household member from friends, relatives or other sources of support;
- (B) Depriving the family or household member of basic necessities;
- (C) Controlling, regulating or monitoring the family or household member's movements, communications, daily behavior, finances, economic resources or access to services;
- (D) Compelling the family or household member by force, threat or intimidation, including, but not limited to, threats based on actual or suspected immigration status, to
  - (i) engage in conduct from which such family or household member has a right to abstain, or
  - (ii) abstain from conduct that such family or household member has a right to pursue;
- (E) Committing or threatening to commit cruelty to animals that intimidates the family or household member; or
- (F) Forced sex acts, or threats of a sexual nature, including, but not limited to, threatened acts of sexual conduct, threats based on a person's sexuality or threats to release sexual images.

In consideration of their respective bills, California and Connecticut noted opposition on the grounds that adding coercive control to civil statutes could potentially lead to more BIPOC men being incarcerated, or that these expanded definitions could be used against survivors by their abusers.<sup>171</sup> The laws in Hawaii, California, and Connecticut, are still too new to obtain

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<sup>171</sup> Comments from Senator Alex Kassar (CT) and Senator Susan Rubio (CA) available at [https://youtu.be/qUn6Qg5ha\\_0](https://youtu.be/qUn6Qg5ha_0).

meaningful data or conduct a formal evaluation, but anecdotally, the sponsoring senators from Connecticut and California shared that there is still a need for more judicial training in how the law works and its intent.<sup>172</sup>

Additionally, at the national level, the National Council for Juvenile and Family Court Judges (NCJFCJ) is working to update the model code to include a more expansive definition of domestic abuse that includes coercive control. The 2021 reauthorization of the Violence Against Women Act (VAWA)<sup>173</sup> updated the federal definition of domestic violence to include coercive control, specifically stating that “the term ‘domestic violence’ means a pattern of behavior involving the use or attempted use of physical, sexual, verbal, psychological, economic, or technological abuse or any other coercive behavior committed, enabled, or solicited to gain or maintain power and control over a victim...” Section 40703 of the 1994 VAWA established the VAWA self-petition and VAWA suspension of deportation.<sup>174</sup> The implementing regulations provide embrace psychological abuse or exploitation and acts that are part of a pattern of violence, providing:

the phrase “was battered by or was the subject of extreme cruelty” includes, but is not limited to, being the victim of any act or threatened act of violence, including any forceful detention, which results or threatens to result in physical or mental injury. Psychological or sexual abuse or exploitation, including rape, molestation, incest (if the victim is a minor), or forced prostitution shall be considered acts of violence. Other abusive actions may also be acts of violence under certain circumstances, including acts that, in and of themselves, may not initially appear violent but that are a part of an overall pattern of violence.<sup>175</sup>

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<sup>172</sup> *Id.*

<sup>173</sup> Available at [https://judiciary.house.gov/uploadedfiles/violence\\_against\\_women\\_act\\_2021.pdf](https://judiciary.house.gov/uploadedfiles/violence_against_women_act_2021.pdf).

<sup>174</sup> Pub. L. No. 103-322. (1994); codified at 8 U.S.C. § 1154(a)(1)(A)(iii)(I) and 8 U.S.C. § 1229b(b)(2)(A).

<sup>175</sup> 8 C.F.R. §204.2(c)(vi).

## ***F. Judicial Education***

Adding coercive control to the civil legal definition of domestic violence should also occur in conjunction with appropriately funded, high-quality, and regular training for all judicial officers (including pro tem judges) as determined and designed by the Board for Judicial Administration’s Court Education Committee (CEC).<sup>176</sup> Suggested training components for consideration by the CEC include:

1. Evidence-based research and reporting on coercive control, initially delivered by national and international experts, with regular training updated to ensure competency of the material and concepts;
2. Interactive case studies or case vignettes to simulate sample cases courts may encounter to ensure competency in assessing “Who is the person experiencing coercive control?” and “Who is the person perpetrating coercive control?”
3. Development of a chapter on coercive control for the DV Bench Guide;
4. Establishment of training requirements through amendment of GR 26<sup>177</sup> that specify the number of hours or courses needed before a judicial officer can or should hear these types of cases, in addition to annual updated training and other refresher courses (such as at judicial college and other judicial officer trainings);
5. Development of a formal review period where a sample of protection order cases can be blindly evaluated to assess application of the new definition in protection orders, including a brief report explaining findings;

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<sup>176</sup> [https://www.courts.wa.gov/programs\\_orgs/cec/?fa=cec.home](https://www.courts.wa.gov/programs_orgs/cec/?fa=cec.home).

<sup>177</sup> See [https://www.courts.wa.gov/programs\\_orgs/cec/?fa=cec.gr26compliance](https://www.courts.wa.gov/programs_orgs/cec/?fa=cec.gr26compliance).

6. Consideration of recommendations to courts regarding administration and scheduling of protection order calendars to ensure consistency and enforcement. Some courts employ regular compliance review calendars, for example, regarding court-ordered domestic violence or other treatment.

### ***G. Recommendations***

- Include coercive control in the civil (not the criminal<sup>178</sup>) definition of domestic violence in RCW 7.105.010(8)(a) and (b) and update references throughout chapter 7.105, as necessary.<sup>179</sup> The stakeholder group was not unanimous in this recommendation, but this was the prevailing view in light of our discussion, research, and outreach. It should be noted that stakeholders also acknowledged potential risks associated with adding coercive control to the civil definition of domestic violence, which underscore the need for judicial training on this topic.
- Add a definition of “coercive control” in RCW 7.105.010, with elements that include:
  - Limiting principles to distinguish the conduct from self-protective / defensive tactics or situational conflict:<sup>180</sup> e.g., did the perpetrator engage in a pattern of behavior designed to unreasonably interfere with the victim's freedom and autonomy? Did the behavior, in purpose or effect, cause the victim extreme emotional distress, and unreasonably interfere with the victim’s freedom and autonomy?

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<sup>178</sup> No stakeholder group expressed support for criminalizing coercive control. *See also* Appendix K at p. K 168.

<sup>179</sup> Washington state statutes that define domestic violence or include a cross-reference to the DV definition contained in the protection order statute include RCW 4.24.130 (name change), RCW 26.09.191 (parenting plan restrictions), RCW 50.20.050 (unemployment), RCW 49.76.020 (employment leave), and RCW 59.18.570 (landlord tenant).

<sup>180</sup> *See* “Understanding Coercive Control” (p. 47) and “Looking to Other Jurisdictions” (p. 58) sections of this report.

- Specific examples of tactics and abusive behaviors that are coercive and controlling, e.g. those listed on pp. 49-50 of this report.
- Include coercive control as a subject on which judicial officers should receive training, under RCW 7.105.255. Allocate funding for the Administrative Office of the Courts to develop evidence-based training on this topic, as well as resources for judicial officers.

## **VII. Information Sharing**

Pursuant to HB 1320, Sec. 36(e), the Gender and Justice Commission, in partnership with the Washington Tribal State Court Consortium (TSCC), was mandated to convene stakeholders to develop: “best practices, including proposed training and necessary forms... to address how:

- (i) Washington state court judges of all levels can see the existence of, and parties to, tribal court, military, and other jurisdiction protection orders, in comity with similar state court orders;
- (ii) Tribal courts can enter their protection orders into the judicial information system used by state courts to check for conflicting orders and history; and
- (iii) State courts can query the national crime information center to check for tribal, military, and other jurisdictions' protection orders prior to issuing protection orders.<sup>181</sup>

Within the tight timeline prescribed in the bill, the workgroup was not able to definitively answer every question implicated by the problem of cross-jurisdiction information-sharing. Instead, we have identified some best practices to prevent the issuance of conflicting protection orders, and we have proposed some ways in which Washington’s state and tribal courts might overcome barriers to implementing these best practices. To help inform our understanding of this issue and our report, we sought information from the following sources: (1)

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<sup>181</sup> Chapter 215, Laws of 2021.

a statewide survey of victim advocates and attorneys; (2) surveys of state and tribal court clerks, judges, and administrators; (3) informational interviews with system stakeholders from other states; (4) informational interviews and one stakeholder meeting with Department of Justice (DOJ) personnel; and (5) discussion over the course of five meetings on September 20, 2021, October 4, 2021, October 18, 2021, November 1, 2021, and November 15, 2021.

### ***A. Why is this issue important?***

Judicial officers need robust and reliable information, in order to make fully informed decisions across the spectrum of their cases. Unless a foreign protection order is entered into the state judicial information system, a state court judge will not know about it. Foreign protection orders<sup>182</sup> are an important piece of the information puzzle, for three primary reasons.

First, under the federal Violence Against Women Act (VAWA), a valid protection order issued by any “State, Indian tribe, or territory . . . shall be accorded full faith and credit by the court of another State, Indian tribe, or territory.”<sup>183</sup> This means that valid protection orders are, as a legal matter, fully enforceable across jurisdictional lines. As a practical matter, however, a court cannot enforce an order of which it is unaware.

Second, while cross-jurisdictional enforcement is imperative for victim safety, it also creates the potential for conflicting orders. Conflicting orders can result in delays, confusion, or inaction by law enforcement, which in turn emboldens perpetrators and undermines survivors’ safety and trust in the system. They can also place law enforcement in dangerous situations.

Finally, a judicial officer’s ability to view foreign protection order data would help to guard against abusive litigation as a domestic violence tactic. The Washington State Legislature

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<sup>182</sup> This term includes tribal, military, and other states’ protection orders.

<sup>183</sup> 18 U.S.C. § 2265(a).

recently enacted chapter 26.51 RCW, which empowers state courts to dismiss actions determined to be abusive litigation by one current or former intimate partner against another.<sup>184</sup> Knowledge of prior court involvement, including the issuance of a protection order by a foreign court, is critical to the fact-finding necessary under this statute.

According to Chief Judge Cindy Smith of Suquamish Tribal Court, “[f]or years, tribal court judges and tribal prosecutors have shared concerns regarding recognition and enforcement of tribal court protection orders and the ability of state judicial officers to know whether or not a tribal court protection order exists.” While there have been efforts that have improved aspects of entering and sharing protection orders across systems at both the state and federal level — VAWA reauthorizations, collaborative workgroups, technical assistance, and creation of new resources — gaps remain.

### **1. State Law Governing Communication with Foreign Courts**

There are two primary sources of state law governing Washington courts’ communication regarding, and recognition of, foreign protection orders:

**Civil Rule (CR) 82.5 subsections (c) and (d)** govern state superior court authority to enforce tribal court orders, judgments, and decrees, and outline the process whereby state superior courts and tribal courts may communicate about “co-occurring proceedings, whether they are active or have been concluded.” CR 82.5’s provisions regarding state-tribal court communication are recent additions, made effective September 24, 2019. There is no comparable rule for district or municipal courts,<sup>185</sup> nor does any Washington State court rule provide for

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<sup>184</sup> For the definition of “abusive litigation” under this statute, see RCW 26.51.020(1).

<sup>185</sup> There is currently no equivalent to CR 82.5 for courts of limited jurisdiction. See Civil Rule 1 and Courts of Limited Jurisdiction Rule (CRLJ) 81(a).

communication with foreign state courts or military tribunals. There is no case law interpreting the current version of CR 82.5(c) and (d).

**Chapter 26.52 RCW** is Washington’s foreign protection order full faith and credit act. The statute was enacted in 1999, several years after Congress passed VAWA. It sought to close gaps in prior existing state law regarding the enforcement of foreign protection orders that is required by VAWA. RCW 26.52.005. Chapter 26.52 RCW applies to all levels of trial courts in Washington.

**RCW 26.52.030** provides the process whereby a person protected under a foreign court order may file that order for enforcement by a Washington state court. It allows for authorized personnel from a foreign court or agency to send protection orders to a Washington state court.<sup>186</sup> Pursuant to chapter 26.52 RCW, the protected party may file a foreign protection order in the court where they reside, or in any place the protected party “believes enforcement may be necessary.”<sup>187</sup> The clerk must help the protected party provide the court with specified information, if available, and shall provide the protected party with community resource information and a copy of the foreign order showing proof of filing.<sup>188</sup> The clerk must also forward a copy of the filed order and supplemental information to the county sheriff for entry into the database used to list outstanding warrants.<sup>189</sup> This process is similar to how some counties process tribal court protection orders.

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<sup>186</sup> RCW 26.52.030(1).

<sup>187</sup> RCW 26.52.030(1).

<sup>188</sup> RCW 26.52.030(4)-(6).

<sup>189</sup> RCW 26.52.040(1).

## **2. Preliminary Note on Tribal Data Sovereignty**

Tribes are sovereign nations, meaning they can govern, protect, and enhance the health, safety, and welfare of tribal citizens within their tribal territory.<sup>190</sup> Because of this, tribes also have tribal data sovereignty which is “the right of a nation to govern the collection, ownership, and application of its own data.”<sup>191</sup> This means that each tribe owns the data that is collected on their citizens and has the right to decide what happens to that data.<sup>192</sup> This includes individual identifying information and aggregated information collected from protection orders.

In projects related to the exchange of information between Tribes and the State of Washington, all aspects of data collection and retention should be addressed in bilaterally negotiated data sharing agreements. This includes the potential projects contemplated in this report.

### ***B. Data Systems***

Before delving into the discussion of current practices and processes, it is important to provide an overview of information systems at the state and federal level. These systems are Washington’s Judicial Information System (JIS) and the federal National Crime Information Center (NCIC) database.

#### **1. Judicial Information System (JIS)**

Washington’s Administrative Office of the Courts (AOC) supports many technology applications for state court judicial officers and court personnel. Collectively, this suite of applications are referred to as “JIS.”

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<sup>190</sup> Echo-Hawk A, Dominguez A, Echo-Hawk L., *MMIWG: We Demand More*. Urban Indian Health Institute. (October 8, 2019). Available at <https://www.uihi.org/resources/mmiwg-we-demand-more/>.

<sup>191</sup> United States Indigenous Data Sovereignty Network, <https://usindigenousdata.org/>.

<sup>192</sup> “A Step Toward Justice: Examining the collaboration between Urban Indian Health Institute and the King County Prosecuting Attorney’s Office and the lessons learned from this partnership.” Urban Indian Health Institute. (October 12, 2021). Available at <https://www.uihi.org/projects/protecting-the-sacred/>.

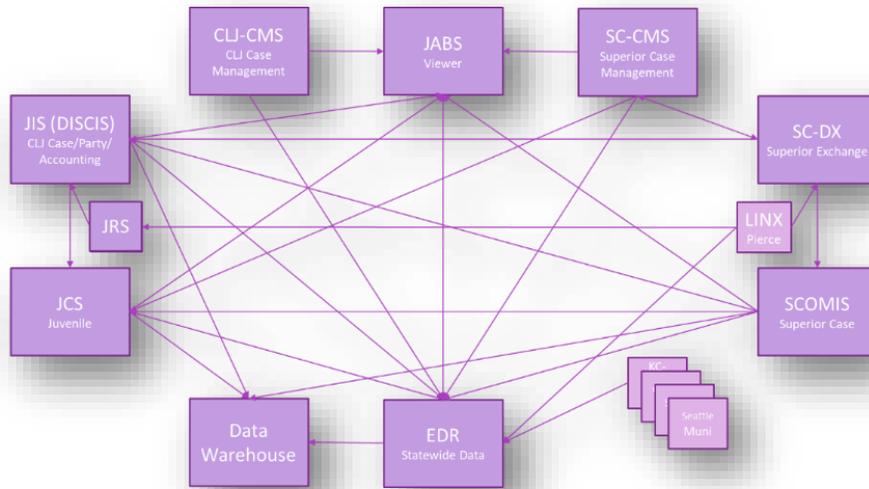
Currently, JIS includes the following:

- Court-level case management systems:
  - Juvenile Courts (JCS)
  - Superior Courts (SC-CMS - Odyssey)
  - Superior Courts (SCOMIS) – “Legacy system,” to be retired
  - Courts of Limited Jurisdiction (CLJ-CMS - Odyssey)
  - Courts of Limited Jurisdiction (DISCIS) – “Legacy system,” to be retired<sup>193</sup>
  - Appellate Courts (ACORDS/AC-ECMS)
- Supporting systems:
  - Judicial Access Browser System (JABS)
  - Data Warehouse
  - Enterprise Data Repository (EDR)
  - Statewide Data Warehouse

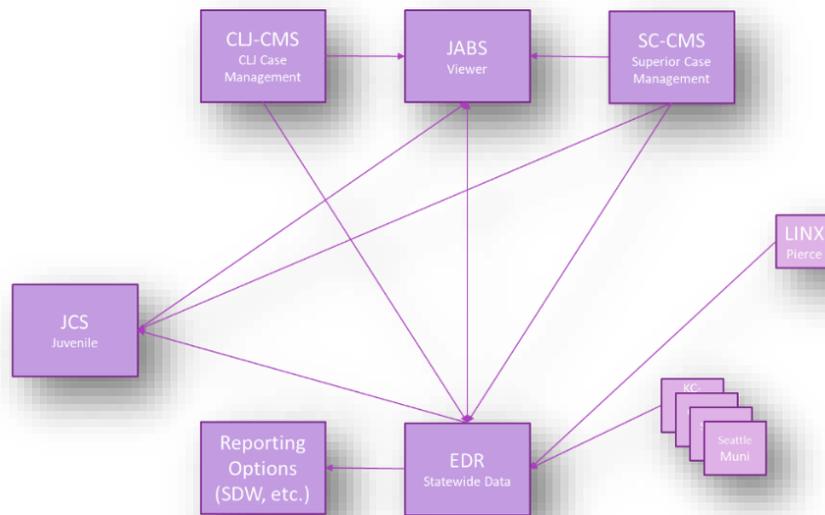
The current flow of protection order information between systems includes pathways between case management systems, court applications, exchange systems, data warehouses, and browsers. One might envision this system as a spider web with a large number of connections between systems:

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<sup>193</sup> DISCIS will be retired after courts of limited jurisdiction transition to CLJ-CMS.



AOC is moving toward an information exchange system model that looks similar to the figure below:



The Enterprise Data Repository (EDR) will become the primary repository for state court shared data. Much like a large train station acts as a hub for many destinations, the EDR will facilitate the flow of information between systems rather than having tracks between each system. The EDR will also provide information for statewide reporting. Some tribes have JIS access to view

only. Those tribes that do can view JIS as part of their review process to ensure that there is not an existing state court protection order.

## **2. National Crime Information Center (NCIC) Database**

The Federal Bureau of Investigation’s Criminal Justice Information Services Division (CJIS) manages and operates several national crime information systems used by the public safety community for both criminal and civil purposes. CJIS systems are available to the criminal justice community, including law enforcement, jails, prosecutors, courts, and probation and pretrial services. CJIS systems also are available to non-criminal justice agencies for specifically authorized civil purposes, such as screening for child placement, employment, housing, and licensing.<sup>194</sup>

One such system—the National Criminal Information Services (NCIS)—includes the NCIC and its 21 subsystems, including the NCIC Protection Order File. An authorized agency can access NCIS through their designated federal, tribal, or state Criminal Justice Information Services Systems Agency (CSA). The Washington State Patrol (WSP) is the CSA for state, county, and local entities in Washington State.

Tribes can access NCIC data including the Protection Order File via the DOJ’s Tribal Access Program (TAP), which acts as the tribal CSA. The CSA is responsible for planning and providing necessary hardware, software, funding, quality assurance, and training for complete access to all CJIS Division data services by all authorized agencies within the state. Many of the Washington State tribes use the DOJ TAP portal and directly enter their issued protection orders into the national protection order database.

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<sup>194</sup> <https://www.justice.gov/tribal/national-crime-information-systems>.

Once a tribe is accepted into the TAP program, they must meet the following requirements:

- Appropriate terminal (or web-based access portal);
- A fingerprint background check of individuals who access the terminal or web-based access portal;
- CJIS Security Awareness Training; and
- Audit once every 3 years to assess adherence to policies and procedures.<sup>195</sup>

In order for Washington State courts to access the NCIC Protection Order File, they would need to meet similar requirements, as well as any other requirements that Washington’s CSA and access policies may require. At this time, the stakeholder group is uncertain whether NCIC security requirements can be satisfied consistent with Washington State courts’ constitutional open courts requirement.<sup>196</sup> Representatives from the DOJ indicated that NCIC security requirements may be satisfied so long as CJIS information is maintained in a “secure record management file system.” However, further consultation with the WSP is needed to understand what constitutes a “secure record management file system,” and whether court files can meet that standard.

### ***C. Current Practices***

In an effort to understand how courts are implementing full faith and credit requirements, we conducted outreach to tribal court judges, clerks, and administrators; state court judges, clerks, and administrators; and victim advocates/attorneys. We also consulted with stakeholders

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<sup>195</sup> The NCIC audit’s purpose is to ensure data integrity and reliability and compliance with NCIC policies and applicable federal laws. See <https://www.justice.gov/tribal/page/file/1291476/download>.

<sup>196</sup> “Article I, section 10 [of the Washington State Constitution] applies and renders documents presumptively public when the documents . . . [are] ‘filed with the trial court in support of a motion that can potentially dispose of a case.’” *Dreiling v. Jain*, 151 Wn.2d 900 (2004).

in other states, to determine whether there were innovative approaches to information-sharing problems, which Washington courts might adopt. Our conclusions, detailed below, are that while Washington remains a relative leader in efforts to facilitate state-tribal court information practices, implementation varies widely.

Tribal courts issue protection orders pursuant to tribal codes.<sup>197</sup> Common relief provisions authorized in tribal court protection orders include:<sup>198</sup>

- Restraining the perpetrator from committing further acts of violence, harassment, or stalking.
- Excluding the respondent from the residence, workplace, school, and grounds of the dwelling of the petitioner.
- Awarding temporary custody and/or establishing temporary visitation rights, or restraining the respondent from interfering with child custody or removing a child from the jurisdiction of the court.
- Awarding temporary use of a shared residence or vehicle.
- Restraining one or both parties from transferring, encumbering, concealing, or disposing of property.

Data fields in tribal court protection orders generally include information relevant to enforcement and are analogous to those common in Washington state protection orders, such as the names of the parties, scope of restricted conduct, and dates the order remains effective. However, as sovereign nations, tribes can create protection orders that are enforceable in

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<sup>197</sup> *Domestic Violence Bench Guide for Judicial Officers* (Revised 2015) at p. 13-11, available at <https://www.courts.wa.gov/content/manuals/domViol/chapter13.pdf>.

<sup>198</sup> *Id.*

Washington courts even if they contain provisions that would not be available in a state order.<sup>199</sup> For this reason, state court judicial officers commented in stakeholder group meetings that it would be ideal to see the whole protection order, as opposed to only limited data therein.

Many tribal courts located in Washington State maintain their own case management system, where tribal protection orders are entered first. Like state courts, some use commercial off the shelf applications, while others have created their own, individualized systems. Tribal courts may make their protection orders visible outside the tribal case management system in one of two ways:

First, some tribes participate in TAP,<sup>200</sup> which provides direct access to the NCIC Protection Order File. TAP allows participating tribal courts to enter their own protection orders into NCIC, and to see all other protection orders entered there. In TAP, the DOJ is the CSA.

Second, some tribal courts send, by fax or email, copies of their protection orders to a local or neighboring county clerk's office.<sup>201</sup> County clerks are then required to enter the protection order as a foreign order, pursuant to chapter 26.52 RCW. When the protection order is entered into the state system it is assigned a case number in the county's case management system. Clerks then forward the order; by fax, email, or via the case management system, to a local law enforcement entity. Law enforcement agencies then enter the protection orders into the Washington State Criminal Information Center (WACIC), the state database, which feeds into NCIC. Stakeholders advised that if the tribal order is entered into the national database via TAP,

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<sup>199</sup> State Obligation to Enforce Protection Orders Issued By The Courts Of Other States Or Tribal Courts, AGO 2018 No. 5, available at <https://www.atg.wa.gov/ago-opinions/state-obligation-enforce-protection-orders-issued-courts-other-states-or-tribal-courts>.

<sup>200</sup> <https://www.justice.gov/tribal/tribal-access-program-tap>.

<sup>201</sup> Appendix M at Q8, p. M 180.

sending the order to the county clerk potentially results in double entry into the NCIC Protection Order file.

State law enforcement officers can see all protection orders entered into NCIC, regardless of how they are entered. But the state JIS contains only those tribal court protection orders that were sent to and entered by a county clerk.

Among 10 tribal courts (out of 29)<sup>202</sup> that responded to our stakeholder group’s inquiries, most (8) reported that they have access to NCIC,<sup>203</sup> and six reported that they enter their protection orders there.<sup>204</sup> Respondents indicated that clerks, bailiffs, and/or other court personnel either enter the orders into NCIC, or they send the orders to tribal police to complete that entry.<sup>205</sup>

Four survey respondents indicated that their courts file tribal protection orders with a state court for entry into the Washington State judicial database.<sup>206</sup>

### **1. Tribal Court Protection Orders – State Court Perspective**

Pursuant to RCW 26.50.160,<sup>207</sup> judicial officers are required to consult JIS to determine the history of the parties. Washington state court judges typically access judicial information through the Judicial Access Browser (JABS). JABS provides the mechanism to see information submitted to JIS via various case management systems, including Odyssey, DISCIS, LINX (Pierce County), eCourt (King County District) and Link, and KC SCRIPT (King County Clerk).

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<sup>202</sup> <https://goia.wa.gov/tribal-directory/washington-state-tribal-courts>.

<sup>203</sup> Our survey question was disjunctive, asking participants to answer “yes” or “no” if they had access to NCIC or the WASPC database. We have since learned that no tribes directly enter protection orders into the state database (WACIC); therefore, we understand that all affirmative responses indicate NCIC access. Additionally, the survey question incorrectly referred to the Washington Crime Information Center (WACIC) database as the WASPC database.

<sup>204</sup> Appendix M at Q4-Q5, pp. M 176-177. As noted, data-entry access implies the NCIC database.

<sup>205</sup> Appendix M at Q6, p. M 178.

<sup>206</sup> Appendix M at Q7, p. M 179.

<sup>207</sup> This statute will be repealed and replaced with RCW 7.105.230 effective July 1, 2022.

The information available in JABS for judicial officers to review varies depending on the amount of data submitted to the system. The search output from JABS is an Individual Case History (ICH) that lists the cases associated with the searched for person/party. These cases include all adult criminal cases, all juvenile cases, child welfare cases, some family law cases, and civil protection order cases. The information includes the court jurisdiction by code, nature of the proceeding, the charges filed, the disposition of the case, issuance of warrants, the case type of a family law filing (e.g. parentage, divorce, etc.), the status (active/expired) for protection orders, the names of the parties and birth dates, if known, as well as associated addresses.

Additional information is available if a case is selected. The additional information can include a docket that outlines prior hearing dates and orders, the judicial officer and participants involved in the hearing, next hearing dates, if any, and a participant list.

The JABS viewer allows a user to “hover” over a data field and get additional information about that field. For instance, S17 is the King County Superior Court code. If a user hovers their mouse over S17, a dialog box pops out and provides the corresponding court to that code. This information is available for any of the data code fields. If the information is printed, the end-reviewer does not have this information unless they log on and use the web interface. JABS does not show any images of court orders. Information provided in the docket is limited to typed data.

In order to learn more about if and how state courts obtain information about tribal court protection orders, the stakeholder group sent out surveys to state court clerks, presiding judges, and administrators.

*i. Superior Court Judges & Administrators*

Our group received judicial officer or court administrator responses from 14 out of 39 counties.<sup>208</sup> Five judicial officers and nine court administrators/assistant court administrators completed the survey.<sup>209</sup> Only some of the 14 respondents answered every question.

Only nine counties responded regarding what databases they review for protection orders with nearly all indicating they use JIS/JABS with a couple counties also checking Odyssey.<sup>210</sup> 100% of survey responders use JIS to locate information about litigants.<sup>211</sup> Judicial officers are primarily responsible for checking party history and conflicting orders, but some courts have staff (e.g. judicial assistants, facilitators, etc.) perform that function.<sup>212</sup> Six counties expressed interest in having NCIC access.<sup>213</sup>

No respondent county has a way to identify preexisting or active orders in tribal courts.<sup>214</sup> One county, Thurston, reported that they have a “conflicting orders process” but this does not address the issue of state court protection orders conflicting with tribal protection orders.<sup>215</sup> The vast majority of the respondent counties would like tribal court order information accessible online in JIS/JABS or some other shared database.<sup>216</sup> One smaller county indicated that courts need one place to look for this information as there are not resources to look at multiple databases.<sup>217</sup>

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<sup>208</sup> Appendix G at Q1, p. G 100.

<sup>209</sup> *Id.* at Q3, p. G 102.

<sup>210</sup> *Id.* at Q16, p. G 103.

<sup>211</sup> *Id.* at Q24, p. G 111.

<sup>212</sup> *Id.* at Q20, G 107.

<sup>213</sup> *Id.* at Q21, G 108. Note that in response to Q17 (p. G 104) only one county indicated it had NCIC or WACIC access, but it clarified that the county prosecuting attorneys have access/credentials to NCIC/WACIC in response to Q 18, p. G 105.

<sup>214</sup> *Id.* at Q22, p. G 109.

<sup>215</sup> *Id.* at Q20, p. G 107.

<sup>216</sup> *Id.* at Q23, p. G 110.

<sup>217</sup> *Id.*

ii. *County Clerks*

There were 22 total responses from 39 county clerks.<sup>218</sup> Thirteen counties responded regarding what databases they review for protection orders, and those that did indicated that they use JIS/JABS with a couple of counties also checking Odyssey.<sup>219</sup> The responding counties also identified JIS as the same database that they review for conflicting orders.<sup>220</sup> Many of the respondents indicated that it was not a clerk responsibility to check for conflicting orders.<sup>221</sup> Only one county indicated it had NCIC or WACIC access;<sup>222</sup> six counties expressed interest in having NCIC access.<sup>223</sup>

We received varying answers to the question, “How, if at all, does your court work with neighboring tribes to identify preexisting or active orders entered in the Tribal courts?”<sup>224</sup>

- Eight respondents indicated that they had no nearby tribes, had never seen tribal orders, did not have a process, did not know about a process, or had never had this come up;
- Five respondents indicated this was a question for the court (judge);
- For the four county clerks who did work with tribes, two indicated that they receive the tribal court order and then enter it into Odyssey as a foreign protection order, one responder stated that they open a DV file and then forward to law enforcement, and one response was simply “phone.”
- One respondent indicated that the tribal courts used to send their protection orders to the clerk’s office, but stopped doing so when they were able to enter directly into NCIC.

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<sup>218</sup> Appendix E at Q1, p. E 52.

<sup>219</sup> *Id.* at Q18, p. E 55.

<sup>220</sup> *Id.* at Q21, p. E 58.

<sup>221</sup> *Id.* at Q22, p. E 59.

<sup>222</sup> *Id.* at Q19, p. E 56.

<sup>223</sup> *Id.* at Q23, p. E 60.

<sup>224</sup> *Id.* at Q24, p. E 61.

Suggestions proposed by survey respondents to improve the knowledge of tribal protection orders included joint data entry training for state and tribal clerks by region; that AOC provide data entry to all tribal courts; for clerks and court administrators to attend the TSCC conference; that every tribal order should be entered into the state’s system by the county clerk’s office; and meeting with stakeholders.<sup>225</sup>

*iii. Courts of Limited Jurisdiction*

There were 31 responses to our survey of courts of limited jurisdiction (CLJs) out of approximately 151<sup>226</sup> CLJs in the state;<sup>227</sup> ten respondents were judges or commissioners, sixteen were court administrators or directors, and five were clerks, coordinators, or managers.<sup>228</sup> When asked which databases court personnel checked for relevant civil or criminal history of the parties, 26 out of 29 respondents indicated JIS/JABS.<sup>229</sup> Other databases referenced included NCIC and the Department of Licensing (DOL).<sup>230</sup> Twenty-six respondents also indicated that they check JIS for conflicting orders, and one respondent said they checked NCIC.<sup>231</sup> Responsibility for looking up conflicting orders varied: respondents indicated that judges, clerks, prosecutors, or other court personnel looked for conflicting orders, or that no one checks.<sup>232</sup>

Approximately one-third of survey respondents indicated that their court has access to the NCIC or WACIC database,<sup>233</sup> and that the staff positions with access credentials included

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<sup>225</sup> *Id.* at Q25 at p. E 62.

<sup>226</sup> Number approximated based on correspondence with DMCJA senior staff on 11/24/21.

<sup>227</sup> Responses were received from Kitsap County, Centralia, Yakima County, Whatcom County, Wahkiakum County, Pend Oreille County, Pacific County, Thurston County, King County, Gig Harbor, Cheney, Jefferson County, Tukwila, Walla Walla County, Kittitas County, Douglas County, Lake Forest Park, Fife, San Juan County, Chelan County, Benton County, Klickitat County, Pasco, Lincoln County, Island County, and Marysville. Appendix F at Q1, p. F 73.

<sup>228</sup> *Id.* at Q3, p. F 75.

<sup>229</sup> *Id.* at Q25, p. F 76.

<sup>230</sup> *Id.*

<sup>231</sup> *Id.* at Q28, p. F 79.

<sup>232</sup> *Id.* at Q29, p. F 80.

<sup>233</sup> *Id.* at Q26, p. F 77. Please also note that our survey question was disjunctive, asking participants to answer “yes” or “no” if they had access to NCIC or the WASPC database. We have since learned that state courts do not directly

probation services, assistant administrator, court services manager, judge, and prosecutor.<sup>234</sup>

When asked whether their court would be interested in and capable of having NCIC access, approximately 60% responded in the affirmative.<sup>235</sup>

In response to the question about how, if at all, their court works with neighboring tribes to identify preexisting or active orders, most indicated either that they do not work with neighboring tribes, that the question was not applicable to them, or that they did not know.<sup>236</sup>

One respondent indicated that the Sheriff's Office makes contact, and one indicated contact with tribal courts by phone.<sup>237</sup> When asked to make recommendations to improve knowledge of tribal, military, or other state protection orders, several respondents indicated the need for coordinated or centralized databases for data exchange, or for information to be added to JIS/JABs.<sup>238</sup>

## **2. Tribal Court Orders – Victim Advocacy Perspective**

In a statewide survey of victim advocates and attorneys, survey responders were asked: “Have your clients ever experienced an issue with conflicting orders from state and tribal court, state and military court, or from Washington and another state?”<sup>239</sup> Out of 36 responses, 42% indicated that their clients had experienced an issue.<sup>240</sup>

Survey responders were also asked to describe the outcome in narrative form, when they had indicated that their client experienced an issue.<sup>241</sup> Themes from those who responded were

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enter protection orders into the state database (WACIC); therefore, we understand that all affirmative responses indicate NCIC access. Additionally, the survey question incorrectly referred to the Washington Crime Information Center (WACIC) database as the WASPC database.

<sup>234</sup> *Id.* at Q27, p. F 78.

<sup>235</sup> *Id.* at Q30, p. F 81.

<sup>236</sup> *Id.* at Q31, p. F 82.

<sup>237</sup> *Id.*

<sup>238</sup> *Id.* at Q32, p. F 83.

<sup>239</sup> Appendix C at Q23, p. C 40.

<sup>240</sup> *Id.*

<sup>241</sup> *Id.* at Q24, p. C 41.

that conflicting orders created confusion, caused delays, and made enforcement of protection orders difficult.<sup>242</sup>

### **3. Looking to Other States Regarding Tribal Protection Orders**

We had the opportunity to meet with DOJ personnel regarding TAP and NCIC access requirements. Given their nationwide experience, we asked questions about their knowledge of what happens in other states:

- DOJ personnel were aware of processes similar to those used in Washington, whereby tribal courts send their orders to state court personnel for entry in the state court database;
- They were not aware of any other states where tribes are able to enter their orders directly into the state system;
- While several state courts enter information into their state system that is then pushed to NCIC, DOJ personnel were not aware of the reverse happening—where NCIC data is pushed to the state judicial system, and they advised that that process would have to meet the security requirements of the state CSA.

We also sent out an inquiry via the Center for Court Innovation’s National DV Court Forum listserv regarding information-sharing between state and tribal courts via registries/databases and received no responses.

As part of our information-gathering, we also conducted individual outreach to other states.<sup>243</sup> The states we consulted—California, Oregon, Arizona, New Mexico, and Idaho—each have a collaborative body similar to Washington’s TSCC, which encourages communication

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<sup>242</sup> *Id.*

<sup>243</sup> *See* Appendix O for memo detailing systems in Oregon, Arizona, Idaho, and New Mexico.

between state and tribal courts.<sup>244</sup> There are tribes located in each of these states that participate in the DOC-TAP Program, which allows for direct entry into the NCIC system.

Upon additional outreach to stakeholders in Oregon, we learned that they have yet to work through the issue of information sharing between state and tribal courts.

We also reached out to staff members of the California Judicial Council who support the California Tribal Court State Court Forum. We learned that California courts do not have a centralized judicial database, and have created a state protection order registry, the California Courts Protective Order Registry. Courts are not required to enter protection orders into this registry, but they are encouraged to do so. This registry does not currently interface with the state court case management systems. This registry is directly connected to the law enforcement database in California (CLETS), and also stores images of the order itself.

No tribal court in California has permission to enter orders into CLETS or any state judicial database, including the state protection order registry, but some do have permission to view the registry to check for conflicting orders. Tribal courts in California file their protection orders with state courts. This is often done between courts so the protected party does not have to physically go to the state court to file the protection order.

#### **4. Military Protection Orders**

The state courts that responded to the survey did not identify any process for accessing or reviewing military protection orders. Military protection orders have limited enforcement areas and can vary significantly in duration.<sup>245</sup> An example of notification requirements under 32 C.F.R §635.19(b) provides that for Army bases the installation Directorate of Emergency

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<sup>244</sup> *Id.*

<sup>245</sup> *See*, Department of Defense Instruction (DoDI) Number 6400.06- Domestic Abuse Involving DoD Military and Certain Affiliated Personnel (2015); 10 U.S.C. 1561a; 32 CFR § 635.19; and <https://www.womenslaw.org/laws/federal/domestic-violence-military/military-protective-orders#node-25796>.

Service-Provost Marshall office (PMO/DES) will notify the appropriate civilian authority of basic information about the issuance of a military protection order.

One responding superior court shared a process they use to work with the military base in their jurisdiction. These efforts include creating a Liaison Committee between the superior court and the local military base to increase lines of communication. A formal data sharing process does not exist yet; thus, the state courts likely would only know about the existence of a military protection order if the litigants provided the information.

## **5. Other States Protection Orders**

The state courts that responded to the survey did not identify any procedure for accessing or reviewing out of state protection orders.<sup>246</sup> The courts of limited jurisdiction with access to NCIC or WACIC would be aware of out of state protections orders if the orders were submitted into NCIC. If the out of state protection order was filed as a foreign protection order pursuant to RCW 26.52 the information would be available in JIS. Otherwise, the litigants would need to notify the state court about the existence of an out of state protection order.

### ***D. Potential Solutions***

The stakeholder group was asked to consider the following question: “With regard to protection orders, what information or data points from other jurisdictions would be *ideal* for a judicial officer to see, and what information is *necessary* for a judicial officer to see to avoid issuing conflicting orders?” The group identified the following:

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<sup>246</sup> See Appendix E at Q31, Appendix F at Q38, Appendix G at Q29.

Necessary	Ideal
Date and time of issuance	Everything in the column to the left, PLUS
Type of order	Whether there are firearm prohibitions, proof of surrender
Civil or criminal	Terms of the order in realms where conflict is most likely: residential restraints, child-related restraints, workplace restraints, contact restraints
Status of order (temporary, full, active, expired)	For a criminal order, what the underlying crime was and status of that case
Date of expiration	
Full names, DOBs for both parties	
Which party is protected and which party is restrained	

An “absolute ideal” would be for judges to view a copy/image of the entire order and underlying petition.

In October 2021, stakeholders from AOC convened a brainstorming session to identify possible means of making foreign protection orders visible to state court judicial officers. AOC staff identified seven options, which are outlined in Appendix O to this report.<sup>247</sup> Based on the information available at this time, two options appear to be the most viable:

First, AOC could develop a new application/user interface, specifically for tribal court protection orders, that would update the EDR.<sup>248</sup> This would allow tribal courts to enter their protection order data into a new application developed specifically for this purpose, and the information would be available in JABS for state courts to view.<sup>249</sup> It should be noted that this option would make visible *only* orders from participating Washington State tribes. It would not allow state courts to see military or other foreign orders. Our AOC consultants described the pros, cons, and feasibility of this option in the following chart:

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<sup>247</sup> Please note that AOC did not consider the tribal court survey responses, as the survey had not yet closed.

<sup>248</sup> See Appendix O at pp. O 192-198.

<sup>249</sup> *Id.*

Feasible?	Pros	Cons	Dependencies
Yes	<ul style="list-style-type: none"> <li>– Specific toward this issue and problem we are trying to solve.</li> <li>– All existing hooks to the EDR will continue to function the same way.</li> <li>– AOC has done this type of work before.</li> <li>– Tribal court do not need to go the County Clerks.</li> <li>– Control is with the Tribal courts.</li> <li>– No need for NCIC access.</li> <li>– One uniform UI for all Tribal courts to enter the PO the same way even if each of the have different internal processes.</li> </ul>	<ul style="list-style-type: none"> <li>– Would need to clearly understand how the tribal courts function.</li> <li>– What are their processes? Are they standardized?</li> <li>– Would not contain any documents.</li> <li>– Only addresses the tribal court’s protection orders. No other protection orders from the military or other states would be available.</li> <li>– Requires manual data entry.</li> </ul>	<ul style="list-style-type: none"> <li>– Would require standardization amongst the tribal courts.</li> <li>– There would need to be coordination with all the parties involved.</li> </ul>

Given the high cost of this option—estimated to be \$1-2 million—there should be further outreach to assess long-term tribal court interest. However, and as previously noted, approximately eight out of 10 of tribal court survey respondents indicated that they would be interested in having the ability to enter tribal protection orders directly into the Washington State judicial database.<sup>250</sup>

The second potentially viable option would be to connect JIS to the NCIC database to enable viewing of *all* protection orders, including tribal, military, and those from other states.<sup>251</sup> It should be noted that our AOC consultants have serious concerns about the feasibility of this option, in light of NCIC security requirements. They described the pros, cons, and feasibility of this option in the following chart:

<sup>250</sup> Appendix M at Q9, p. M 181.

<sup>251</sup> See Appendix O at pp. O 195-196. Please also note the asterisk indicating follow-up with the Washington State Patrol, Washington’s CSA, is needed to determine whether this option is attainable.

Feasible?	Pros	Cons	Dependencies
<p>Yes. But, not desirable</p> <p>❖ <i>Depends on confirmation of the CJIS security terms and conditions (regarding not storing the data and access to only a limited set of data).</i></p>	<ul style="list-style-type: none"> <li>- Tribal courts would not have to enter data twice.</li> <li>- State courts would be able to see tribes, military and other states protection orders in JABS.</li> <li>- Judicial officers would have the benefit of seeing criminal history and cases involving children.</li> </ul>	<ul style="list-style-type: none"> <li>- NCIC data would not have other case types for parties involved in the protection orders and would not contain parenting plans or civil type cases involving children.</li> <li>- Requires training and certification by CJIS.</li> <li>- Has very strict physical security requirements that limit access and viewing of NCIC material in the workplace to only specially designated computers by only personnel certified by CJIS to view NCIC material.</li> <li>- Requires compliance with regulations that limit the purposes for which NCIC data may be accessed.</li> <li>- Courts would have to submit to audits and inspections for CJIS compliance which is a very onerous process.</li> <li>- Requires security background checks and clearances for anyone in the same workspace as the NCIC authorized access point.</li> <li>- In addition, AOC would also have to comply with CJIS regulations.</li> </ul>	<ul style="list-style-type: none"> <li>- Each court would have to have at least one position designated with the appropriate security clearance, training, and access to this database.</li> <li>- May require funding to implement.</li> </ul>

Based on our discussion with DOJ personnel, we believe more follow-up is needed with the WSP (our state CSA) to assess the possibility of viewing NCIC information via JIS. In the alternative, individual courts who want NCIC access could go through the WSP. Perhaps a pilot project whereby volunteer courts, with funding, opt to get their own NCIC access would better demonstrate the feasibility of NCIC access for state courts. Based on a pilot, a broader solution could be advanced.

Both of these options proposed by AOC would require significant funds and staffing to accomplish, and AOC requires additional time and resources to validate the feasibility of these proposed solutions, including conducting a formal options and cost analysis.

## ***E. Recommendations***

Two solutions to this issue were considered, both of which require additional time to investigate the viability and cost of each option. Those options are that:

- The Administrative Office of the Courts (AOC) develop a new application/user interface to allow tribal courts to enter tribal protection orders directly into the Washington State judicial database (Judicial Information Systems – JIS). This could start as a pilot project with tribes who want to volunteer to enter data into JIS to assess broader feasibility.
- Washington State Courts obtain access to the National Crime Information Center (NCIC) databases. Different approaches are contemplated for this access.
  - The optimal solution would be for JIS and NCIC to be connected and “talk to each other” through AOC’s technical efforts; however, the feasibility of this option is uncertain. Additional follow-up with Washington’s Criminal Justice Information Services Agency, the Washington State Patrol, is needed to determine whether this is possible with existing security requirements.
  - Another approach would be for Washington State courts to obtain access to NCIC via a pilot project involving volunteer courts, to assess broader feasibility.
- In the interim, the courts could update the protection order petition form to expressly ask petitioners to disclose any tribal court cases, military court cases, out of state cases, or out of country cases involving the parties or their minor children.
- The courts might also consider the following:
  - Adopt a best practice whereby judicial officers ask the parties on the record about other court involvement and include a question on the civil protection order petition form to elicit this information.

- CR 82.5 allows superior courts to contact tribal courts. There is not a comparable CRLJ (Civil Rules for Courts of Limited Jurisdiction) that allows district or municipal courts to contact tribal courts. CR 82.5 also does not require any Washington State court to contact any military courts. A similar rule could be created for state court judges to openly communicate with military courts or non-Washington courts. This is no small undertaking, and would require a great investment of time as well as human and financial resources.

## **VIII. Conclusion & Next Steps**

We appreciate the opportunity to consider and provide recommendations related to civil protection orders. Our stakeholder group has provided several actionable recommendations to improve access to the process and safety for the parties involved.

These recommendations include streamlining the transfer criteria from courts of limited jurisdiction to superior courts and allowing direct filing in superior courts for cases that would require transfer; including coercive control in the civil domestic violence definition; options for Washington State courts to see foreign orders, including potential technological solutions and additions to court forms; and the allocation of funds for training of judicial officers and court staff. In light of the short timeframe to consider these issues, we have also identified topics where additional inquiry is recommended.

Following submission of this report, the stakeholder group will pivot to consideration of additional civil protection order-related issues for a report due to the courts by June 30, 2022.

## IX. Recommendations

This section contains a complete list of all stakeholder group recommendations, organized by topic.

### *A. Jurisdictional Division of Authority Between the Courts*

- Regarding access for survivors, the general jurisdictional structure remains supportable and justified by the goals and considerations that shaped the original enactments. The structure creates broad access to physical locations for filing and promotes efficient allocation of judicial resources including use of superior court resources for complex cases and certain subject areas already connected to the superior courts, while using district courts to relieve superior court congestion. No major revisions appear obviously necessary or desirable from a survivor/access perspective. Geographical differences—rather than differences between the levels of courts—appear to produce more disparities regarding access and the user experience.
- Transfer of cases from courts of limited jurisdiction to superior courts is not objectionable in and of itself. The transfer process could be improved, however, including through the creation of a uniform transfer form (as designed by the AOC Forms Committee) that would create more uniformity and clarity. Additionally, the user experience and the internal workings of the transfer process would benefit if courts formulated and posted written procedures addressing transfer. Because of the different courts involved and the varying circumstances and considerations of the different courts and geographies, circumscribing the procedures through legislative enactment is not recommended but best practices could be encouraged with the AOC Forms Committee designing a model template.

- Two immediate recommendations would better support procedural consistency between the different types of protection orders, and promote ease in comprehension and application of the jurisdictional requirements.
  - First, it is recommended that the legislature consider standardizing the circumstances that require transfer of cases to the superior court across four specific types of protection orders: Sexual Assault, Domestic Violence, Stalking and Antiharassment Protection Orders. The existing variations regarding mandatory transfer to the superior court are confusing and appear anachronistic. For example, the legislature could unify the provisions controlling these four protection order types by requiring that superior courts handle full hearings when any of the following four criteria are met:
    - The action involves title or possession of real property;
    - The action would have the effect of interfering with a minor child’s residential schedule or contact with minor children of the parties at issue;
    - The action involves vacating a party from the parties’ shared residence or a request for exclusion from a dwelling; or
    - A superior court has exercised or is exercising civil jurisdiction over a proceeding involving the parties.
  - Second, it is recommended that the legislature permit direct filing in the superior court of all petitions where circumstances are alleged that would ultimately require a transfer.
- To provide a uniform, informed decision-making process, it is recommended that the legislature consider appropriating funds for training of judicial officers and court staff to be administered by the judiciary, which could include the creation of bench cards on transfer requirements. This

recommendation aligns with other recommendations in this report for the provision of funding to develop more robust training resources.

- It is recommended that the legislature consider and evaluate the existing jurisdiction of municipal courts in light of constitutional concerns.
- To better support consistency and harmony between the different types of protection orders, and promote ease in comprehension and application of the jurisdictional requirements in the longer term, it is recommended that the legislature consider the benefit of additional information gathering regarding budgets, costs and resource allocation by the courts to civil protection order proceedings. Further evaluation could illuminate whether its prior goals for the jurisdictional scheme are being met, including whether the courts have sufficient resources to implement the legislative intent. This may be a particularly pressing question as to district courts in light of the numerous instances where the legislature placed proceedings at the district court level to avoid congestion of superior courts.

### ***B. Best Practices for Minors***

- There was consensus that initialing/sealing provisions would better protect the privacy of youth petitioners and respondents. Additional input is recommended on this topic.
- The stakeholder group also considered the topics of sanctions, education, appointment of guardians ad litem and legal counsel, and venue, but there was not consensus around specific recommendations for those issues within the context of civil protection orders.

### ***C. Coercive Control***

- Include coercive control in the civil (not the criminal<sup>252</sup>) definition of domestic violence in RCW 7.105.010(8)(a) and (b) and update references throughout chapter 7.105, as

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<sup>252</sup> No stakeholder group expressed support for criminalizing coercive control. *See also* Appendix K at p. K 168.

necessary.<sup>253</sup> The stakeholder group was not unanimous in this recommendation, but this was the prevailing view in light of our discussion, research, and outreach. It should be noted that stakeholders also acknowledged potential risks associated with adding coercive control to the civil definition of domestic violence, which underscore the need for judicial training on this topic.

- Add a definition of “coercive control” in RCW 7.105.010, with elements that include:
  - Limiting principles to distinguish the conduct from self-protective / defensive tactics or situational conflict:<sup>254</sup> e.g., did the perpetrator engage in a pattern of behavior designed to unreasonably interfere with the victim's freedom and autonomy? Did the behavior, in purpose or effect, cause the victim extreme emotional distress, and unreasonably interfere with the victim’s freedom and autonomy?
  - Specific examples of tactics and abusive behaviors that are coercive and controlling, e.g. those listed on pp. 49-50 of this report.
- Include coercive control as a subject on which judicial officers should receive training, under RCW 7.105.255. Allocate funding for the Administrative Office of the Courts to develop evidence-based training on this topic, as well as resources for judicial officers.

#### ***D. Information Sharing***

Two solutions to this issue were considered, both of which require additional time to investigate the viability and cost of each option. Those options are that:

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<sup>253</sup> Washington state statutes that define domestic violence or include a cross-reference to the DV definition contained in the protection order statute include RCW 4.24.130 (name change), RCW 26.09.191 (parenting plan restrictions), RCW 50.20.050 (unemployment), RCW 49.76.020 (employment leave), and RCW 59.18.570 (landlord tenant).

<sup>254</sup> See “Understanding Coercive Control” (p. 47) and “Looking to Other Jurisdictions” (p. 58) sections of this report.

- The Administrative Office of the Courts (AOC) develop a new application/user interface to allow tribal courts to enter tribal protection orders directly into the Washington State judicial database (Judicial Information Systems – JIS). This could start as a pilot project with tribes who want to volunteer to enter data into JIS to assess broader feasibility.
- Washington State Courts obtain access to the National Crime Information Center (NCIC) databases. Different approaches are contemplated for this access.
  - The optimal solution would be for JIS and NCIC to be connected and “talk to each other” through AOC’s technical efforts; however, the feasibility of this option is uncertain. Additional follow-up with Washington’s Criminal Justice Information Services Agency, the Washington State Patrol, is needed to determine whether this is possible with existing security requirements.
  - Another approach would be for Washington State courts to obtain access to NCIC via a pilot project involving volunteer courts, to assess broader feasibility.
- In the interim, the courts could update the protection order petition form to expressly ask petitioners to disclose any tribal court cases, military court cases, out of state cases, or out of country cases involving the parties or their minor children.
- The courts might also consider the following:
  - Adopt a best practice whereby judicial officers ask the parties on the record about other court involvement and include a question on the civil protection order petition form to elicit this information.
  - CR 82.5 allows superior courts to contact tribal courts. There is not a comparable CRLJ (Civil Rules for Courts of Limited Jurisdiction) that allows district or municipal courts to contact tribal courts. CR 82.5 also does not require any

Washington State court to contact any military courts. A similar rule could be created for state court judges to openly communicate with military courts or non-Washington courts. This is no small undertaking, and would require a great investment of time as well as human and financial resources.

# Appendix A

## E2SHB 1320: Research & Information Sharing Group

<b>Name:</b>	<b>Organization:</b>
Adhia, Dr. Avanti	University of Washington
Aycock, Judge Steve	Colville Confederated Tribal Court
Barschaw, Val	Washington State Association of County Clerks / Kittitas County Clerk
Berns, Judge Elizabeth	King County Superior Court
Crawford-Willis, Judge Anita	District & Municipal Court Judges Association / Seattle Municipal Court
Curry, Keith	Administrative Office of the Courts
Deaton, Tiffany	Association of Washington Superior Court Administrators / Benton & Franklin Counties Superior Court
Demmert, Chief Judge Michelle	Alaska Native Women's Resource Center, Retired Chief Judge at Tulalip Tribal Court, Chief Justice Emeritus for the Central Council Tlingit and Haida Indian Tribes of Alaska, NW Tribal Court system judge
Diseth, Veronica	Administrative Office of the Courts
Finkbonner, Nikki	WomenSpirit Coalition
Flannery, Kaeli	Urban Indian Health Institute
Gilman, Amanda	Washington State Center for Court Research
Gregory, Brittany	Administrative Office of the Courts
Jensen, Charlotte	Administrative Office of the Courts
Koester, Dee	WomenSpirit Coalition
Mack, (Ret.) Judge Barbara	King County Superior Court
Marks, Susan	Washington Coalition of Sexual Assault Programs
Marler, Dirk	Administrative Office of the Courts
McCurley, Dr. Carl	Washington State Center for Court Research
McInville, Commissioner Barbara	Pierce County Superior Court
McNamara, Donna	Suquamish Tribal Court
Miller, Dr. Marna	Washington State Institute for Public Policy
Moody, Erin	Gender & Justice Commission
Moore, Judge Karen	Superior Court Judges Association / Snohomish County Superior Court
Rizvi, M. Abbas	Northwest Justice Project
Rubio, Dawn Marie	Washington State Court Administrator
Shanahan, Sandra	Regional Domestic Violence Firearms Enforcement Unit
Shea-Brown, Judge Jackie	Gender & Justice Commission / Benton & Franklin Counties Superior Court
Smith, Chief Judge Cindy	Washington Tribal State Court Consortium / Suquamish Tribal Court
Thorp, Judge Tanya	King County Superior Court
Welch, Mary	Northwest Justice Project
Wells, Patrick	District & Municipal Court Management Association

## E2SHB 1320: Litigant Rights & Access Group

Name:	Organization:
Adewale, Francis	Interpreter Commission / City of Spokane Public Defender's Office
Allen, Megan	King County Sexual Assault Resource Center
Barcel, Amber	Washington State Coalition Against Domestic Violence
Berns, Judge Elizabeth	King County Superior Court
Boggs, Samantha	Skagit Domestic Violence & Sexual Assault Services
Bridge, (Ret.) Justice Bobbe	Center for Children & Youth Justice
Brockman, Debbie	Aspen Victim Advocacy Services
Carden, Claire	Northwest Justice Project
Coil, Alice	Department of Children, Youth & Families
Cuomo, Dr. Dana	Lafayette College
Curry, Keith	Administrative Office of the Courts
Davis Nielsen, Jenn	Lutheran Community Services NW
Dieng, Tara	Moses Lake New Hope
Dixon-Wall, Michelle	Washington Coalition of Sexual Assault Programs
Diseth, Veronica	Administrative Office of the Courts
Dolci, Natalie	University of Washington- Senior Violence Prevention & Response Specialist
Equihua, Yuridia	Northwest Justice Project
Finkle, Judge Michael	District and Municipal Court Judges Association / King County District Court
Francis, Kate	King County Bar Association
Fulton, Commissioner Patricia	Superior Court Judges Association / Walla Walla County Superior Court
Garcia, Christy	Northwest Justice Project
Garretson, JoDee	Support, Advocacy & Resource Center
Gray, Carolyn	King County Sexual Assault Resource Center
Halpert, (Ret.) Judge Helen	King County Superior Court
Hammond, Kristina	Lutheran Community Services NW of Spokane, Elder Justice Project
High-Edward, Commissioner Jacquelyn	Superior Court Judges Association / Spokane County Superior Court
Hirakawa, Judge Gregg	District & Municipal Court Judges Association / King County District Court
Hirsch, (Ret.) Judge Anne	Thurston County Superior Court
Hohman, Ali	Washington Defender Association
Huang, Grace	Washington State Women's Commission
Hunsiger de Enciso, Michelle	Protection Order Advocacy Program, King County Prosecuting Attorney's Office
Hurley, Katie	King County Department of Public Defense
Lee, Christina	Rebuilding Hope! Sexual Assault Center for Pierce County
Lucas, Michelle	Tenant Law Center / Northwest Justice Project
Maiocco, Frank	Association of Washington Superior Court Administrators / Kitsap County Superior Court

Malveaux, Regina	Washington State Women's Commission
Marler, Dirk	Administrative Office of the Courts
Moody, Erin	Gender & Justice Commission
Morrill, Dee	District & Municipal Court Management Association / Seattle Municipal Court
Mukhopadhyay, Riddhi	Sexual Violence Law Center
NoOneElse, Amy	Northwest Justice Project
Ochoa, Ruby	Washington State Association of County Clerks / Chief Deputy Clerk of Franklin County
Parker, Tracee	Coalition Ending Gender-Based Violence
Pillar, Karen	TeamChild
Rodriguez, Amanda	Educational Service District (Yakima)
Rogness, Angela	Protection Order Advocacy Program, King County Prosecuting Attorney's Office
Rothrock, Judge Averil	Superior Court Judges' Association / King County Superior Court
Rubio, Dawn Marie	Washington State Court Administrator
Schacht, Laurie	YWCA- Clark County
Shah, Judge Ketu	Minority & Justice Commission / King County Superior Court
Shanahan, Sandra	Regional Domestic Violence Firearms Enforcement Unit
Shea-Brown, Judge Jackie	Gender & Justice Commission- DSV Committee / Benton/Franklin County Superior Court
Steffe, Kyler	Providence Intervention Center for Assault and Abuse (Everett)
Todaro, Kim	King County Bar Association
Weaver, Tom	Tom Weaver Law
Welch, Mary	Northwest Justice Project
Wells, Patrick	King County District Court

### **E2SHB 1320: Technology Group**

<b>Name:</b>	<b>Organization:</b>
Ammons, Kevin	Administrative Office of the Courts
Beaton, Melissa	Washington State Association of County Clerks / Skagit County Clerk
Cuomo, Dr. Dana	Lafayette College
Curry, Keith	Administrative Office of the Courts
Diseth, Veronica	Administrative Office of the Courts
Dolci, Natalie	University of Washington- Senior Violence Prevention & Response Specialist
Espedal, Lisa	District & Municipal Court Management Association / Lynwood Municipal Court
Fitzgerald, Tim	Washington State Association of County Clerks / Spokane County Clerk
Garber, Laurie	Northwest Justice Project
Gregory, Brittany	Administrative Office of the Courts
Hendren, Elizabeth	Northwest Justice Project

Jensen, Charlotte	Administrative Office of the Courts
Keeling, Michael	Administrative Office of the Courts
Lin, Judy	King County Bar Association
Marler, Dirk	Administrative Office of the Courts
McIngalls, Colleen	Victim Services, King County Prosecuting Attorney's Office
Myhre Enlow, Linda	Thurston County Clerk
Moody, Erin	Gender & Justice Commission
Rubio, Dawn Marie	Washington State Court Administrator
Shanahan, Sandra	Regional Domestic Violence Firearms Enforcement Unit
Shea-Brown, Judge Jackie	Gender & Justice Commission / Benton & Franklin Counties Superior Court
Short, Judge Charles	District & Municipal Court Judges Association / Okanogan County District Court
Sugg, Fona	Association of Washington Superior Court Administrators / Chelan County Superior Court
Sutton, Judge Aimee	Superior Court Judges Association / King County Superior Court

# Appendix B

## **DISCLAIMER**

The Administrative Office of the Courts, the Washington Courts, and the Washington State County Clerks:

- 1) Do not warrant that the data or information is accurate or complete;
- 2) Make no representations regarding the identity of any persons whose names appear in data or information; and
- 3) Do not assume any liability whatsoever resulting from the release or use of the data or information.

The user should verify the information by personally consulting the "official" record reposing at the court of record.

## Case Counts by Cause of Action and Filing Year

Excluding King Superior and King County District Courts

Report Rupdate: 11/19/2021

		2018	2019	2020	YTD 2021	Sum:
District Court	DOMESTIC VIOLENCE PETITION	1199	1132	941	822	4094
	HARASSMENT	5637	5723	5502	5583	22445
	SEXUAL ASSAULT PROTECTION	61	45	47	48	201
	STALKING PROTECTION	365	289	255	237	1146
District Court	Sum:	7262	7189	6745	6690	27886
Municipal Court	DOMESTIC VIOLENCE PETITION	111	103	75	83	372
	HARASSMENT	149	126	59	96	430
	SEXUAL ASSAULT PROTECTION	2	1	4	1	8
	STALKING PROTECTION	20	11	8	10	49
Municipal Court	Sum:	282	241	146	190	859
Superior Court	DOMESTIC VIOLENCE PETITION	11749	11914	10495	9803	43961
	HARASSMENT	2307	2474	2166	2170	9117
	SEXUAL ASSAULT PROTECTION	355	368	298	289	1310
	STALKING PROTECTION	123	128	101	95	447
Superior Court	Sum:	14534	14884	13060	12357	54835
	Sum:	22078	22314	19951	19237	83580

Superior Court Cases with Docket Codes for Case Transfers

Run Date: 08/10/2021

**Adams**

Docket Code	Docket Text	Order Type	Case Cause	Case File Date - Year				
				2018	2019	2020	2021	Sum:
ORTRDV	ORDER TRANSFERRING DOMESTIC VIOLENC	PROTECTION	DOMESTIC VIOLENCE PETITION	5	3	4		12
ORTRDV	ORDER TRANSFERRING DOMESTIC VIOLENC	TEMP PROTECTION	DOMESTIC VIOLENCE PETITION	2	2	4	1	9
ORTRSP	ORD TRANSFER SEXUAL ASSAULT ACTION	SEXUAL ASSAULT PROT ORD	SEXUAL ASSAULT PROTECTION			1		1
ORTRSP	ORD TRANSFER SEXUAL ASSAULT ACTION	TEMP SEXUAL ASLT ORDER	SEXUAL ASSAULT PROTECTION			1		1
Sum:				7	5	10	1	23

**Asotin**

Docket Code	Docket Text	Order Type	Case Cause	Case File Date - Year				
				2018	2019	2020	2021	Sum:
ORTRDV	ORDER TRANSFERRING DOMESTIC VIOLENC	PROTECTION	DOMESTIC VIOLENCE PETITION		1			1
Sum:					1			1

**Benton**

Docket Code	Docket Text	Order Type	Case Cause	Case File Date - Year				
				2018	2019	2020	2021	Sum:
ORTRDV	ORDER TRANSFERRING DOMESTIC VIOLENC	TEMP PROTECTION	DOMESTIC VIOLENCE PETITION		1			1
Sum:					1			1

**Clallam**

Docket Code	Docket Text	Order Type	Case Cause	Case File Date - Year				
				2018	2019	2020	2021	Sum:
ORTRAH	ORDER TRANSFER ANTI-HARASS TO SUPER	ANTI-HARASSMENT	HARASSMENT	1				1
ORTRAH	ORDER TRANSFER ANTI-HARASS TO SUPER	TEMP ANTI-HARASSMENT	HARASSMENT	1				1
ORTRAH	ORDER TRANSFER ANTI-HARASS TO SUPER	TEMP PROTECTION	DOMESTIC VIOLENCE PETITION		1			1
ORTRDV	ORDER TRANSFERRING DOMESTIC VIOLENC	FOREIGN PROTECTION ORDER	FOREIGN PROTECTION ORDER	1	4			5
ORTRDV	ORDER TRANSFERRING DOMESTIC VIOLENC	PROTECTION	DOMESTIC VIOLENCE PETITION	6	1	4	1	12
ORTRDV	ORDER TRANSFERRING DOMESTIC VIOLENC	TEMP PROTECTION	DOMESTIC VIOLENCE PETITION	9	5	5	1	20
ORTRSP	ORD TRANSFER SEXUAL ASSAULT ACTION	SEXUAL ASSAULT PROT ORD	SEXUAL ASSAULT PROTECTION			1		1
ORTRSP	ORD TRANSFER SEXUAL ASSAULT ACTION	TEMP SEXUAL ASLT ORDER	SEXUAL ASSAULT PROTECTION	1		1		2
TRPTORP	TRANSFERRED PET FOR ORDER PROTECT	FOREIGN PROTECTION ORDER	FOREIGN PROTECTION ORDER	1	1			2
Sum:				20	12	11	2	45

**Clark**

Docket Code	Docket Text	Order Type	Case Cause	Case File Date - Year				
				2018	2019	2020	2021	Sum:
ORTRAH	ORDER TRANSFER ANTI-HARASS TO SUPER	TEMP PROTECTION	DOMESTIC VIOLENCE PETITION	1				1
Sum:				1				1

**Ferry**

Docket Code	Docket Text	Order Type	Case Cause	Case File Date - Year				
				2018	2019	2020	2021	Sum:
ORTRDV	ORDER TRANSFERRING DOMESTIC VIOLENC	PROTECTION	DOMESTIC VIOLENCE PETITION				1	1
ORTRDV	ORDER TRANSFERRING DOMESTIC VIOLENC	TEMP PROTECTION	DOMESTIC VIOLENCE PETITION				1	1
Sum:							2	2

**Grant**

Docket Code	Docket Text	Order Type	Case Cause	Case File Date - Year				
				2018	2019	2020	2021	Sum:
ORTRAH	ORDER TRANSFER ANTI-HARASS TO SUPER	ANTI-HARASSMENT	HARASSMENT	1				1
ORTRAH	ORDER TRANSFER ANTI-HARASS TO SUPER	TEMP ANTI-HARASSMENT	HARASSMENT	1				1
Sum:				2				2

**Grays Harbor**

Docket Code	Docket Text	Order Type	Case Cause	Case File Date - Year				
				2018	2019	2020	2021	Sum:
ORTRAH	ORDER TRANSFER ANTI-HARASS TO SUPER	ANTI-HARASSMENT	HARASSMENT	1	2			3
ORTRAH	ORDER TRANSFER ANTI-HARASS TO SUPER	TEMP ANTI-HARASSMENT	HARASSMENT	1	3		2	6
ORTRAH	ORDER TRANSFER ANTI-HARASS TO SUPER	TEMP PROTECTION	DOMESTIC VIOLENCE PETITION		2			2
ORTRDV	ORDER TRANSFERRING DOMESTIC VIOLENC	PROTECTION	DOMESTIC VIOLENCE PETITION	3	7			10
ORTRDV	ORDER TRANSFERRING DOMESTIC VIOLENC	TEMP ANTI-HARASSMENT	HARASSMENT			1		1
ORTRDV	ORDER TRANSFERRING DOMESTIC VIOLENC	TEMP PROTECTION	DOMESTIC VIOLENCE PETITION	5	7	1		13
Sum:				10	21	2	2	35

**Island**

Case File Date - Year

Docket Code	Docket Text	Order Type	Case Cause	2018	2019	2020	2021	Sum:
ORTRDV	ORDER TRANSFERRING DOMESTIC VIOLENC	PROTECTION	DOMESTIC VIOLENCE PETITION	2	2	5		9
ORTRDV	ORDER TRANSFERRING DOMESTIC VIOLENC	TEMP PROTECTION	DOMESTIC VIOLENCE PETITION	2	2	5		9
ORTRSP	ORD TRANSFER SEXUAL ASSAULT ACTION	SEXUAL ASSAULT PROT ORD	SEXUAL ASSAULT PROTECTION			2		2
ORTRSP	ORD TRANSFER SEXUAL ASSAULT ACTION	TEMP SEXUAL ASLT ORDER	SEXUAL ASSAULT PROTECTION			2		2
TRPTORP	TRANSFERRED PET FOR ORDER PROTECT	PROTECTION	VULNERABLE ADULT PROTECTION		1			1
TRPTORP	TRANSFERRED PET FOR ORDER PROTECT	TEMP PROTECTION	VULNERABLE ADULT PROTECTION		1			1
Sum:				4	6	14		24

**Jeffersc**

Case File Date - Year								
Docket Code	Docket Text	Order Type	Case Cause	2018	2019	2020	2021	Sum:
ORTRDV	ORDER TRANSFERRING DOMESTIC VIOLENC	PROTECTION	DOMESTIC VIOLENCE PETITION				1	1
ORTRDV	ORDER TRANSFERRING DOMESTIC VIOLENC	TEMP PROTECTION	DOMESTIC VIOLENCE PETITION				1	1
Sum:							2	2

**Kitsap**

Case File Date - Year								
Docket Code	Docket Text	Order Type	Case Cause	2018	2019	2020	2021	Sum:
ORTRAH	ORDER TRANSFER ANTI-HARASS TO SUPER	ANTI-HARASSMENT	HARASSMENT		2		2	4
ORTRAH	ORDER TRANSFER ANTI-HARASS TO SUPER	TEMP ANTI-HARASSMENT	HARASSMENT		4	1	3	8
ORTRDV	ORDER TRANSFERRING DOMESTIC VIOLENC	PROTECTION	DOMESTIC VIOLENCE PETITION		1			1
ORTRDV	ORDER TRANSFERRING DOMESTIC VIOLENC	TEMP PROTECTION	DOMESTIC VIOLENCE PETITION		2	1		3
Sum:					9	2	5	16

**Kittitas**

Case File Date - Year								
Docket Code	Docket Text	Order Type	Case Cause	2018	2019	2020	2021	Sum:
ORTRAH	ORDER TRANSFER ANTI-HARASS TO SUPER	ANTI-HARASSMENT	HARASSMENT				1	1
ORTRDV	ORDER TRANSFERRING DOMESTIC VIOLENC	PROTECTION	DOMESTIC VIOLENCE PETITION	7		2		9
ORTRDV	ORDER TRANSFERRING DOMESTIC VIOLENC	TEMP PROTECTION	DOMESTIC VIOLENCE PETITION	2	1			3
Sum:				9	1	2	1	13

**Klickita**

Case File Date - Year								
Docket Code	Docket Text	Order Type	Case Cause	2018	2019	2020	2021	Sum:
ORTRDV	ORDER TRANSFERRING DOMESTIC VIOLENC	PROTECTION	DOMESTIC VIOLENCE PETITION	2	1			3
ORTRDV	ORDER TRANSFERRING DOMESTIC VIOLENC	TEMP PROTECTION	DOMESTIC VIOLENCE PETITION	2	2			4
TRPTORP	TRANSFERRED PET FOR ORDER PROTECT	ANTI-HARASSMENT	HARASSMENT				1	1
Sum:				4	3		1	8

**Lewis**

Case File Date - Year								
Docket Code	Docket Text	Order Type	Case Cause	2018	2019	2020	2021	Sum:
ORTRAH	ORDER TRANSFER ANTI-HARASS TO SUPER	ANTI-HARASSMENT	HARASSMENT	1				1
ORTRAH	ORDER TRANSFER ANTI-HARASS TO SUPER	TEMP ANTI-HARASSMENT	HARASSMENT	1				1
TRPTORP	TRANSFERRED PET FOR ORDER PROTECT	TEMP ANTI-HARASSMENT	HARASSMENT	1				1
Sum:				3				3

**Mason**

Case File Date - Year								
Docket Code	Docket Text	Order Type	Case Cause	2018	2019	2020	2021	Sum:
ORTRDV	ORDER TRANSFERRING DOMESTIC VIOLENC	PROTECTION	DOMESTIC VIOLENCE PETITION	1				1
ORTRDV	ORDER TRANSFERRING DOMESTIC VIOLENC	TEMP PROTECTION	DOMESTIC VIOLENCE PETITION	2				2
ORTRSP	ORD TRANSFER SEXUAL ASSAULT ACTION	TEMP SEXUAL ASLT ORDER	SEXUAL ASSAULT PROTECTION	1				1
Sum:				4				4

**Okanog**

Case File Date - Year								
Docket Code	Docket Text	Order Type	Case Cause	2018	2019	2020	2021	Sum:
ORTRDV	ORDER TRANSFERRING DOMESTIC VIOLENC	TEMP PROTECTION	DOMESTIC VIOLENCE PETITION	1				1
Sum:				1				1

**Pacific**

Case File Date - Year								
Docket Code	Docket Text	Order Type	Case Cause	2018	2019	2020	2021	Sum:
ORTRDV	ORDER TRANSFERRING DOMESTIC VIOLENC	PROTECTION	DOMESTIC VIOLENCE PETITION		3	1		4
ORTRDV	ORDER TRANSFERRING DOMESTIC VIOLENC	TEMP PROTECTION	DOMESTIC VIOLENCE PETITION		2	1	1	4

ORTRSP	ORD TRANSFER SEXUAL ASSAULT ACTION	SEXUAL ASSAULT PROT ORD	SEXUAL ASSAULT PROTECTION			1		1
ORTRSP	ORD TRANSFER SEXUAL ASSAULT ACTION	TEMP SEXUAL ASLT ORDER	SEXUAL ASSAULT PROTECTION				1	1
Sum:					5	3	2	10

**Pend O**

Docket Code	Docket Text	Order Type	Case Cause	Case File Date - Year				Sum:
				2018	2019	2020	2021	
ORTRAH	ORDER TRANSFER ANTI-HARASS TO SUPER	ANTI-HARASSMENT	HARASSMENT	1				1
ORTRAH	ORDER TRANSFER ANTI-HARASS TO SUPER	TEMP ANTI-HARASSMENT	HARASSMENT	1				1
Sum:				2				2

**Skagit**

Docket Code	Docket Text	Order Type	Case Cause	Case File Date - Year				Sum:
				2018	2019	2020	2021	
ORTRAH	ORDER TRANSFER ANTI-HARASS TO SUPER	ANTI-HARASSMENT	HARASSMENT		3		1	4
ORTRAH	ORDER TRANSFER ANTI-HARASS TO SUPER	PROTECTION	DOMESTIC VIOLENCE PETITION		1			1
ORTRAH	ORDER TRANSFER ANTI-HARASS TO SUPER	TEMP ANTI-HARASSMENT	HARASSMENT			1	1	2
Sum:					4	1	2	7

**Snohon**

Docket Code	Docket Text	Order Type	Case Cause	Case File Date - Year				Sum:
				2018	2019	2020	2021	
ORTR18		ANTI-HARASSMENT	HARASSMENT			1		1
ORTRAH	ORDER TRANSFER ANTI-HARASS TO SUPER	ANTI-HARASSMENT	HARASSMENT	21	27	23	13	84
ORTRAH	ORDER TRANSFER ANTI-HARASS TO SUPER	STALKING PROTECTION ORD	STALKING PROTECTION		1			1
ORTRAH	ORDER TRANSFER ANTI-HARASS TO SUPER	TEMP ANTI-HARASSMENT	HARASSMENT	20	25	20	12	77
ORTRAH	ORDER TRANSFER ANTI-HARASS TO SUPER	TEMP STALKING PROT ORD	STALKING PROTECTION		1			1
ORTRDV	ORDER TRANSFERRING DOMESTIC VIOLENC	ANTI-HARASSMENT	HARASSMENT	3	4	6		13
ORTRDV	ORDER TRANSFERRING DOMESTIC VIOLENC	PROTECTION	DOMESTIC VIOLENCE PETITION	175	171	155	81	582
ORTRDV	ORDER TRANSFERRING DOMESTIC VIOLENC	PROTECTION	VULNERABLE ADULT PROTECTION	1				1
ORTRDV	ORDER TRANSFERRING DOMESTIC VIOLENC	SEXUAL ASSAULT PROT ORD	SEXUAL ASSAULT PROTECTION		1			1
ORTRDV	ORDER TRANSFERRING DOMESTIC VIOLENC	STALKING PROTECTION ORD	STALKING PROTECTION			1		1
ORTRDV	ORDER TRANSFERRING DOMESTIC VIOLENC	TEMP ANTI-HARASSMENT	HARASSMENT	3	4	6		13
ORTRDV	ORDER TRANSFERRING DOMESTIC VIOLENC	TEMP PROTECTION	DOMESTIC VIOLENCE PETITION	175	176	161	92	604
ORTRDV	ORDER TRANSFERRING DOMESTIC VIOLENC	TEMP PROTECTION	HARASSMENT	1				1
ORTRDV	ORDER TRANSFERRING DOMESTIC VIOLENC	TEMP PROTECTION	VULNERABLE ADULT PROTECTION	1				1
ORTRDV	ORDER TRANSFERRING DOMESTIC VIOLENC	TEMP STALKING PROT ORD	STALKING PROTECTION			1		1
ORTRSP	ORD TRANSFER SEXUAL ASSAULT ACTION	SEXUAL ASSAULT PROT ORD	SEXUAL ASSAULT PROTECTION	2	5		2	9
ORTRSP	ORD TRANSFER SEXUAL ASSAULT ACTION	TEMP SEXUAL ASLT ORDER	SEXUAL ASSAULT PROTECTION	2	5		4	11
Sum:				404	420	374	204	1402

**Spokan**

Docket Code	Docket Text	Order Type	Case Cause	Case File Date - Year				Sum:
				2018	2019	2020	2021	
ORTRAH	ORDER TRANSFER ANTI-HARASS TO SUPER	ANTI-HARASSMENT	HARASSMENT	1		1	1	3
ORTRAH	ORDER TRANSFER ANTI-HARASS TO SUPER	TEMP ANTI-HARASSMENT	HARASSMENT	1		1	1	3
ORTRDV	ORDER TRANSFERRING DOMESTIC VIOLENC	PROTECTION	DOMESTIC VIOLENCE PETITION	1	2		1	4
ORTRDV	ORDER TRANSFERRING DOMESTIC VIOLENC	TEMP PROTECTION	DOMESTIC VIOLENCE PETITION	3	1		1	5
ORTRSP	ORD TRANSFER SEXUAL ASSAULT ACTION	TEMP SEXUAL ASLT ORDER	SEXUAL ASSAULT PROTECTION	1				1
Sum:				7	3	2	4	16

**Stevens**

Docket Code	Docket Text	Order Type	Case Cause	Case File Date - Year				Sum:
				2018	2019	2020	2021	
ORTRAH	ORDER TRANSFER ANTI-HARASS TO SUPER	ANTI-HARASSMENT	HARASSMENT	6	28	16	24	74
ORTRAH	ORDER TRANSFER ANTI-HARASS TO SUPER	PROTECTION	DOMESTIC VIOLENCE PETITION		4	2	1	7
ORTRAH	ORDER TRANSFER ANTI-HARASS TO SUPER	STALKING PROTECTION ORD	HARASSMENT				1	1
ORTRAH	ORDER TRANSFER ANTI-HARASS TO SUPER	TEMP ANTI-HARASSMENT	HARASSMENT	6	21	19	21	67
ORTRAH	ORDER TRANSFER ANTI-HARASS TO SUPER	TEMP PROTECTION	DOMESTIC VIOLENCE PETITION		3	2	1	6
ORTRDV	ORDER TRANSFERRING DOMESTIC VIOLENC	ANTI-HARASSMENT	HARASSMENT	1				1
ORTRDV	ORDER TRANSFERRING DOMESTIC VIOLENC	PROTECTION	DOMESTIC VIOLENCE PETITION	7	10	4	4	25
ORTRDV	ORDER TRANSFERRING DOMESTIC VIOLENC	TEMP PROTECTION	DOMESTIC VIOLENCE PETITION	8	16	4	4	32
ORTRSP	ORD TRANSFER SEXUAL ASSAULT ACTION	SEXUAL ASSAULT PROT ORD	SEXUAL ASSAULT PROTECTION		1		1	2
ORTRSP	ORD TRANSFER SEXUAL ASSAULT ACTION	TEMP SEXUAL ASLT ORDER	SEXUAL ASSAULT PROTECTION		1		1	2
Sum:				28	84	47	58	217

**Thursto**

Case File Date - Year

Docket Code	Docket Text	Order Type	Case Cause	2018	2019	2020	2021	Sum:
ORTRAH	ORDER TRANSFER ANTI-HARASS TO SUPER	ANTI-HARASSMENT	HARASSMENT	1		1		2
ORTRAH	ORDER TRANSFER ANTI-HARASS TO SUPER	TEMP ANTI-HARASSMENT	HARASSMENT	2		1	1	4
ORTRDV	ORDER TRANSFERRING DOMESTIC VIOLENC	ANTI-HARASSMENT	HARASSMENT	1				1
ORTRDV	ORDER TRANSFERRING DOMESTIC VIOLENC	PROTECTION	DOMESTIC VIOLENCE PETITION	1				1
ORTRDV	ORDER TRANSFERRING DOMESTIC VIOLENC	TEMP PROTECTION	DOMESTIC VIOLENCE PETITION	3	2			5
ORTRDV	ORDER TRANSFERRING DOMESTIC VIOLENC	TEMP PROTECTION	HARASSMENT	1				1
Sum:				9	2	2	1	14

**Whatco**

				Case File Date - Year				
Docket Code	Docket Text	Order Type	Case Cause	2018	2019	2020	2021	Sum:
ORTRAH	ORDER TRANSFER ANTI-HARASS TO SUPER	TEMP STALKING PROT ORD	STALKING PROTECTION		1			1
ORTRDV	ORDER TRANSFERRING DOMESTIC VIOLENC	PROTECTION	DOMESTIC VIOLENCE PETITION	2	1	1		4
ORTRDV	ORDER TRANSFERRING DOMESTIC VIOLENC	TEMP PROTECTION	DOMESTIC VIOLENCE PETITION	2	2	3	1	8
TRPTORP	TRANSFERRED PET FOR ORDER PROTECT	TEMP STALKING PROT ORD	STALKING PROTECTION			1		1
Sum:				4	4	5	1	14

**Whitma**

				Case File Date - Year				
Docket Code	Docket Text	Order Type	Case Cause	2018	2019	2020	2021	Sum:
ORTRDV	ORDER TRANSFERRING DOMESTIC VIOLENC	PROTECTION	ANNULMENT-INVALIDITY		1			1
ORTRDV	ORDER TRANSFERRING DOMESTIC VIOLENC	PROTECTION	DOMESTIC VIOLENCE PETITION			1		1
ORTRDV	ORDER TRANSFERRING DOMESTIC VIOLENC	PROTECTION	PARENTING PLAN/CHILD SUPPORT			1		1
ORTRDV	ORDER TRANSFERRING DOMESTIC VIOLENC	TEMP PROTECTION	ANNULMENT-INVALIDITY		1			1
ORTRDV	ORDER TRANSFERRING DOMESTIC VIOLENC	TEMP PROTECTION	DOMESTIC VIOLENCE PETITION		1	1		2
ORTRDV	ORDER TRANSFERRING DOMESTIC VIOLENC	TEMP PROTECTION	PARENTING PLAN/CHILD SUPPORT			1		1
Sum:					3	4		7

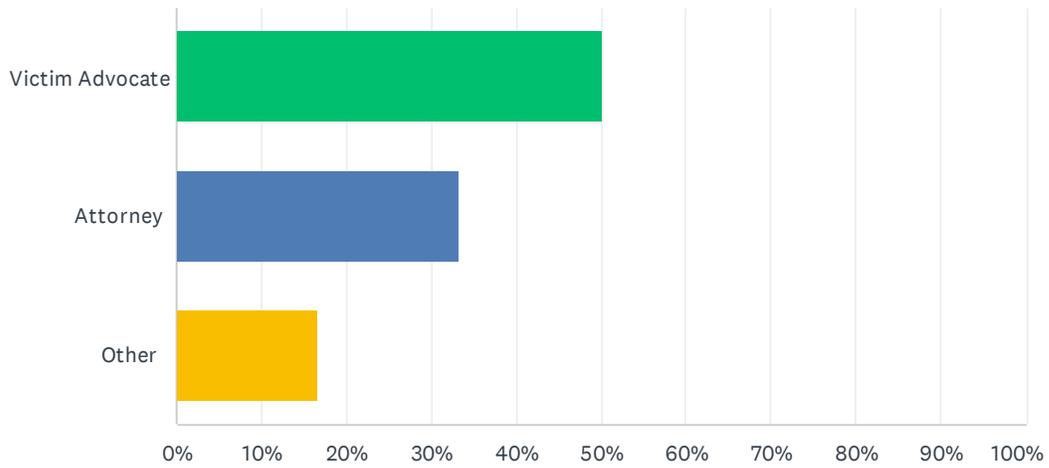
**Yakima**

				Case File Date - Year				
Docket Code	Docket Text	Order Type	Case Cause	2018	2019	2020	2021	Sum:
ORTRAH	ORDER TRANSFER ANTI-HARASS TO SUPER	ANTI-HARASSMENT	HARASSMENT			1	2	3
ORTRAH	ORDER TRANSFER ANTI-HARASS TO SUPER	TEMP ANTI-HARASSMENT	HARASSMENT			1	3	4
ORTRAH	ORDER TRANSFER ANTI-HARASS TO SUPER	TEMP PROTECTION	DOMESTIC VIOLENCE PETITION		1			1
Sum:					1	2	5	8

Appendix C

Q1 What is your role?

Answered: 36 Skipped: 0



ANSWER CHOICES	RESPONSES
Victim Advocate	50.00% 18
Attorney	33.33% 12
Other	16.67% 6
TOTAL	36

Q2 If you answered "other" to the question above, please let us know your role.

Answered: 11 Skipped: 25

#	RESPONSES	DATE
1	N.A	9/27/2021 9:43 AM
2	community relations-healthcare	9/24/2021 3:52 PM
3	legal aid attorney	9/24/2021 11:38 AM
4	n/a	9/23/2021 3:18 PM
5	Program Coordinator/Family Law	9/23/2021 10:52 AM
6	Law student and volunteer with victim services org	9/15/2021 7:49 PM
7	n/a	9/15/2021 2:05 PM
8	Survivor	9/14/2021 5:52 PM
9	N/A	9/14/2021 11:57 AM
10	Client Service Specialist at CDCVAS.	9/14/2021 9:18 AM
11	Victim Services Director	9/13/2021 2:32 PM

## Q3 In which county/counties do you work?

Answered: 31 Skipped: 5

#	RESPONSES	DATE
1	Whatcom & Skagit	9/27/2021 12:08 PM
2	WA	9/27/2021 11:39 AM
3	King	9/27/2021 9:43 AM
4	spokane, adams, pend oreille, lincoln, stevens, ferry	9/24/2021 3:52 PM
5	King	9/24/2021 1:34 PM
6	King	9/24/2021 12:22 PM
7	Thurston, Mason, Lewis, Pierce region	9/24/2021 12:08 PM
8	statewide	9/24/2021 11:38 AM
9	King	9/23/2021 3:18 PM
10	Yakima	9/23/2021 10:52 AM
11	King	9/21/2021 4:06 PM
12	Whatcom	9/21/2021 8:40 AM
13	King County	9/20/2021 11:08 AM
14	Pierce	9/17/2021 3:12 PM
15	King	9/15/2021 7:49 PM
16	Yakima County	9/15/2021 6:19 PM
17	Whatcom	9/15/2021 3:47 PM
18	King, Pierce, Snohomish	9/15/2021 2:05 PM
19	Chelan and Douglas	9/15/2021 8:45 AM
20	Chelan/Douglas	9/15/2021 8:37 AM
21	King	9/14/2021 5:52 PM
22	Chelan and Douglas Counties	9/14/2021 5:28 PM
23	King	9/14/2021 4:10 PM
24	Clark	9/14/2021 11:57 AM
25	Walla Walla, Columbia	9/14/2021 11:33 AM
26	San Juan	9/14/2021 11:03 AM
27	Clallam and Jefferson	9/14/2021 10:37 AM
28	Chelan & Douglas Co, Wa	9/14/2021 9:18 AM
29	Pend Oreille and Spokane	9/13/2021 2:32 PM
30	Pend Oreille	9/13/2021 12:42 PM
31	Pend Oreille and Spokane Counties	9/13/2021 10:40 AM

## Q4 What are some examples of non-physical coercive or controlling behaviors that your clients have experienced?

Answered: 36 Skipped: 0

#	RESPONSES	DATE
1	Withholding financial resources; threatening eviction	9/27/2021 12:14 PM
2	experience that my clients have experienced is by having their perp hold there kids and not let them see them.	9/27/2021 11:45 AM
3	<p>1. Interference with school attendance. Examples include spoiling proctored tests for distance learning by interrupting or speaking to the client on camera during the testing period, making demands that required the client to miss classes, or interfering with homework assignments in order to cause the client to miss important deadlines. 2. Interference with work schedules or performance. Examples include repeatedly calling a work phone answered by co-workers and asking to speak with the client, showing up at work with the children and demanding that the client take care of them, neglecting the children while the client is at work so that client feels insecure leaving the children with the abuser in order to go to work, and/or demanding that the client call out sick or go in to work late in order to perform domestic labor or run errands for the abuser. 3. Withholding of financial resources' concealing financial assets. Examples include keeping community or CIR resources in a secret bank account, denying the client the ability to see statements and accounts by intercepting mailed statements and changing online account passwords to exclude the client, fraudulent conveyance of jointly held assets to conceal marital property, overspending on revolving credit and refusing to pay bills so that the client will accumulate excessive consumer debt and have their credit rating damaged. 4. Fraudulent reports to DCYF of child abuse or neglect; examples include false reports of domestic violence, sexual abuse, substance abuse, exposing the child to promiscuity with dangerous strangers. 5. False allegations of public benefits fraud to state offices. Examples include claiming that client received income they did not report from child support the abuser did not actually pay or was working under the table in order to maintain benefits. 6. False reports by the abuser to the police alleging domestic violence, battery, assault, and irrational or odd behavior characterized as an untreated psychiatric symptom. 7. Threats to take "full custody" of the children based on "mental illness" (often the client's mental health is fine and their level of stress and low mood are appropriate and sub-clinical. This is because whether such emotional states are appropriate vs. pathological is relative to the high levels of disorder and manipulation that clients experience from abusers. While they do have often have high levels of stress/anxiety and a depressed mood, these are rational and appropriate emotional responses to the chaos created by the abuser. In particular, this means that they do not meet diagnostic criteria established in the DSM 5 for many common mental health diagnoses. Such allegations of mental illness are possibly the most common form of gaslighting I see in IPV family and protection order cases. Where clients mental health symptoms exist and are not fabricated by the abuser as a threat, they may be signs of PTSD caused by years of domestic violence by the abuser. 8. Insistence that the client is "emotionally disturbed" or "mentally ill" and therefore an unfit parent who will "lose custody" of the children in a divorce or parenting plan action. 9. Refusal to acknowledge paternity of children in common/accusations of infidelity. 10. Threats of suicide if the abuser does not get what they want. 11. Threats of homicide against the client, her children, or family pets if the abuser does not get his way. 12. Explosive and unpredictable rages with shouting, threats, and property destruction. These are often over trivial or entirely fabricated matters including accusations of infidelity and are designed to force the client to coddle and accommodate the abusers every whim to avoid a frightening temper tantrum. 13. Disrupting the client's sleep by waking her or refusing to allow her to fall asleep. This often happens as a way to extend a conflict rather than resolve it or let it go. The conflict may be trivial or based on false premises concocted by the abuser in order to provide an opportunity to disrupt the client's sleep or for some other reason. 14. Tampering with cars or other forms of transportation to make the client dependent on the abuser to get around. This effectively can trap some clients in the home which the must flee without their children initially in order to escape this abuse. When they do, abusers often then threaten to use this as evidence of either neglect of the children or exaggeration of the domestic violence</p>	9/27/2021 11:03 AM

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claims. The argument is usually of the form "if you were telling the truth, you would have left sooner" or "if things were so bad in the home as you say, you would not leave a young child or infant without protection and yet you did, so therefore you are lying."

4	not allowing them to work, taking the vehicle away from them, keeping the kids away from them, continuing to get them pregnant so they can stay at home	9/24/2021 3:55 PM
5	financial control, isolation, intimidation, gaslighting	9/24/2021 3:22 PM
6	Total control over finances and other assets, such as vehicle, refusal to adhere to parenting plan, threats to call ICE, verbal and emotional abuse - belittling, name calling, threats of suicide/self-harm	9/24/2021 3:18 PM
7	Following my client by car, placing a tracking app on my client's phone, demanding to examine my client's phone when she comes home, making my client's life difficult if she spends time with anyone he doesn't approve of (he doesn't approve of anyone), harming himself or threatening to do so if she doesn't do what he wants, behaving badly around others so that she is discouraged to be in public with him (away from the eyes of others), bad-mouthing her to community members so that her reputation is tarnished before she can disclose DV to them	9/24/2021 3:02 PM
8	Family Law filings, threats to take children or report immigration status, financial threats and control, housing; not adding victim to lease/frequently kicking victim out of housing, identity theft, drug intake and/or threatening sobriety, isolation; creating problems with friends and family, creating communication barriers (stealing phone, not paying bill), medication sabotage, reproductive control/coersion, gaslighting, community resource manipulation	9/24/2021 12:33 PM
9	Financial control - taking CL's paycheck and depositing to abuser's sep account, not allowing cl to have any money to shop, including food or anything, denying access to vehicle. Preventing cl from visiting friends and family. Banishing cl to remote part of home when visitors come to house; asking kids to spy on mom - take photos to see what she is wearing, who she is with, what she is doing, humiliating her in front of children or other adults.	9/24/2021 12:31 PM
10	control over relationships with friends/social interactions, finances, behavior, monitoring communications, phones and computer usage,	9/24/2021 11:43 AM
11	controlling money, employment, time/access to children, restricting access to transportation, immigration, housing, access to friends and family, isolation, gaslighting, verbal and psychological abuse, tech abuse (ex taking over social media accounts and posting for the survivor, emailing therapist or doctor through mychart), controlling the narrative, religious/cultural beliefs and norms control and abuse- use views against survivor, reproductive abuse-controlling access to birth control or refusing to use it, exposing STDs, controlling access to abortion or forcing abortion, forcing pregnancy.	9/23/2021 3:31 PM
12	Controlling money, Isolation, not allowing victim to work, threats to physically harm, threats to take children away, belittling.	9/23/2021 11:13 AM
13	Financial control, isolation from family and friends, gas lighting, control using kids, threats regarding immigration status, prevented from working, prevented from going to school, control around birth control use, control regarding medical care, etc.	9/21/2021 4:14 PM
14	Threats to victim's children, threats to other family members, etc. Mental abuse (No one will ever love you like I do" "You can't take care of yourself" etc) and the ever-present threat to take the kids if she leaves him/divorces him. Lots of mental/verbal abuse techniques	9/21/2021 10:32 AM
15	abusive partner filing a change of address form in survivor's name in order to take her mail away from her and use it to his advantage abusive partner not allowing survivor to sleep (this takes many forms, one the abusive partner literally stole the bed from survivor) AP stealing the stimulus checks AP stealing other govt aid checks AP refusing to pay rent or mortgage AP parking his vehicle behind survivor's vehicle, blocking her exit AP mailing things addressed to AP to survivor's house, then claiming survivor "stole his mail" AP bribing children in common to turn them against survivor AP claiming a family pet is a service animal that AP must have in his home AP showing at survivor's workplace to intimidate/harass them AP renting an apartment in the same complex as the survivor. AP emptying community property assets AP securing an aggressive attorney with community property fund and using litigation to exert power over survivor Abusive litigation	9/21/2021 9:03 AM
16	Some examples of coercive control clients have experienced are financial, stalking, monitoring through social media, threatening to take custody of children, immigration status reported,	9/20/2021 11:46 AM

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sexual coercion, forced pregnancy or abortion, threats to pets, denying ability to work, isolating from family and friends, manipulating mental health. False reporting to CPS or police. Rallying friends and family against them.

17	A few examples have been not being able to see friends or family; being stalked at work; making negative comments about their body; not having access to any bank accounts or credit cards; keeping important documents away from survivor; putting trackers on their cars and monitoring emails.	9/17/2021 3:36 PM
18	isolation from friends, family & community by interfering with relationships or limiting access to phone, other tech devices and social media accounts. Controlling access to bank accounts, EBT/disability payments, and prescriptions. withholding access to immigration documents. Calling or threatening to call ICE, CPS, HUD, landlord, or police.	9/15/2021 8:06 PM
19	There are too many examples to list. Batterers use tactics that will be effective when used against their specific intimate partner. The Power & Control Wheel is a good place to start for examples of tactics that are not necessarily physical but are coercive and controlling. Some examples: Using looks and gestures to intimidate; threatening to expose any secrets the survivor may have; withholding money and/or keeping track of every penny spent by the survivor, monitoring the odometer on the car and demanding an account of every person the survivor talked to and every place the survivor went on any given day; threatening to harm pets; threatening court action to keep the survivor from having contact with the children; threatening to get the survivor fired from their job; threatening to get the survivor deported; threatening to get the survivor arrested by making up lies; using name calling and relentless criticism of the survivor as a human being, as a mother, and/or as a partner;	9/15/2021 6:51 PM
20	financial abuse, threats of harm, isolation, emotional abuse, threats to take children away	9/15/2021 4:04 PM
21	Leveraging co-pays and deductible health costs of children, modifying or refusing to modify residential schedules, exploiting parenting plan language that relies on parental cooperation instead of spelling out specifics of high-risk or high-conflict activities, e.g., parenting exchanges, changes to residential scheduling, payment of extracurricular or health costs, reimbursement of costs, communication with children, etc. (partial list)	9/15/2021 2:20 PM
22	1. Threatening victims to take children away from them. 2. lack of resources (job, work experience, and adequate child care). 3. Not making enough money to cover all expenses. 4. Low self steam (due to verbal abuse), they are made believe that they are not good enough as a wife/partner, and mother. 5. Not being able to drive or to have a vehicle.	9/15/2021 1:38 PM
23	Verbal threats, taking child away, stalking, access to their phone, etc.	9/15/2021 8:42 AM
24	Ongoing persistent behavior patterns include: 1)Ongoing financial control; 2)ongoing threats of physical harm; 3)ongoing demeaning and invalidating in front of children; 4) ongoing isolation from family/support systems; 5)ongoing demeaning comments; 6)persistent gaslighting.	9/14/2021 6:04 PM
25	Threats of suicide by the abuser, threats to take away the children or have someone deport the victim, or send people after family members, telling victims that they can't go to church, isolation, refusing the client to have friends or talk on the phone or use a computer , or going through the client's phone after the fact, telling a client that they can't have those friends or wear those close, There are to many to list.	9/14/2021 5:37 PM
26	financial control; social isolation; threats to take children if survivor speaks out	9/14/2021 4:19 PM
27	Financial control. Not allowing them on bank accounts. Doling out money. Not letting them work. Control of online accounts even after trying to split. Spying on or requiring access to mobile devices, etc. Using control of the children or access to the children as a means to control or place client in dangerous situation where they can be harmed again. Controlling access to family and friends - isolation generally. Preventing or not providing access to vehicles. Requiring home schooling of children for further isolation. Using religious guilt or manipulation, including influencing members of religious community against client trying to leave abusive relationship.	9/14/2021 12:08 PM
28	not letting survivor use birth control (reproductive coercion), taking all of the money, not letting the survivor work, keeping survivor awake all night, alleging that survivor is having an affair w/ any man she speaks to, ordering survivor to re-prepare food that wasn't cooked to his liking, refusing to prepare immigration paperwork, isolation from friends, not letting survivor attend church, forcing survivor to watch abuser engage in sexual activity with others, threatening to	9/14/2021 12:03 PM

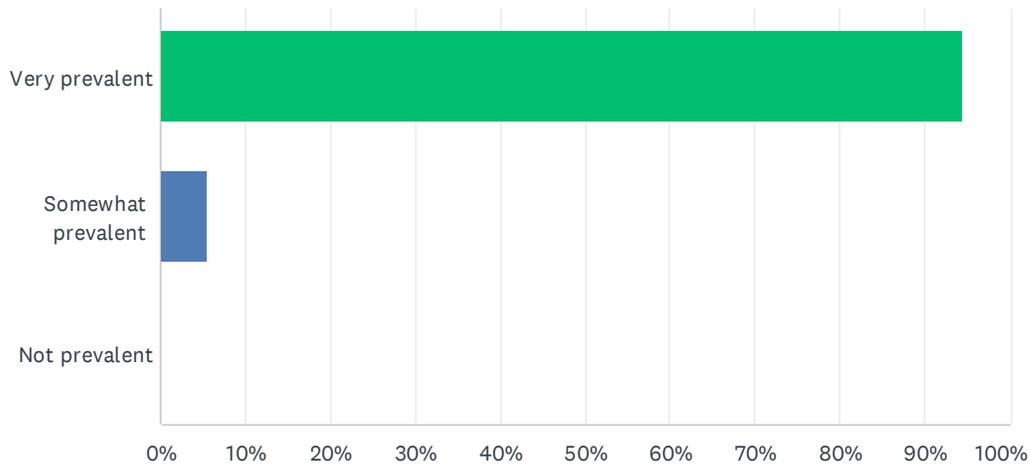
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call police claiming that survivor (who is Muslim) is a terrorist, threatening to call ICE to have survivor deported

29	Isolating from friends and family, gas lighting, not allowing our client to leave the house alone, not giving our client access to money, forcing them into drugs	9/14/2021 11:48 AM
30	Isolation, manipulation, black mail, restricting movements and choices, economic exploitation and control, birth control interference, using cultural frameworks to support behavior.	9/14/2021 11:30 AM
31	Financial abuse, Isolation, Name calling, Gas Lighting, Jealousy	9/14/2021 11:16 AM
32	Deprivation of basic needs such as housing, or transportation. Isolation from friends or family.	9/14/2021 10:13 AM
33	Withholding money or transportation. Unable to connect with or contact family members or friends.	9/13/2021 2:42 PM
34	Financial Abuse, Taking Away Means of Transportation, Threats of Hurting Reputation, Using Shared Children as a Pawn	9/13/2021 12:55 PM
35	One way we see abusers controlling their victims is through be-belittling comments, that effect their self image and confidence. Withholding financial access, making the victim financially dependent on the abuser. Threatening behavior or threats of harm to children, victim won't leave children with abuser and this limits their capability of accessing resources. Threatening that their children will be taken by CPS, ICW.	9/13/2021 10:56 AM
36	Threats to self, client victim, pets, withholding of transportation, money, implied threats	9/13/2021 10:50 AM

## Q5 How prevalent is coercive control in your clients' cases?

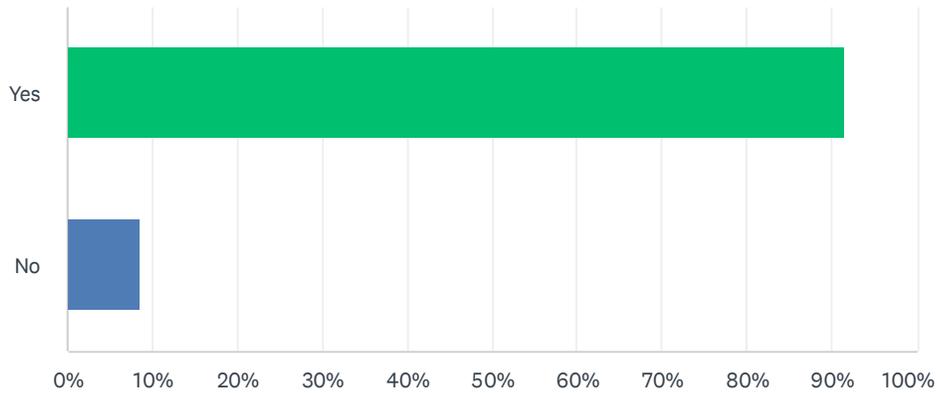
Answered: 36 Skipped: 0



ANSWER CHOICES	RESPONSES	
Very prevalent	94.44%	34
Somewhat prevalent	5.56%	2
Not prevalent	0.00%	0
<b>TOTAL</b>		<b>36</b>

### Q6 When your clients file for a domestic violence protection order, do you encourage them to include descriptions of coercive and controlling behavior in their petitions?

Answered: 35 Skipped: 1



ANSWER CHOICES	RESPONSES	
Yes	91.43%	32
No	8.57%	3
TOTAL		35

## Q7 If yes, how do the courts respond to their allegations of coercive control?

Answered: 34 Skipped: 2

#	RESPONSES	DATE
1	It seems to be useful for determining a course of conduct but is not itself deemed DV within the definition of the statute	9/27/2021 12:14 PM
2	they respond very well.	9/27/2021 11:45 AM
3	I do not do so because several of the family law commissioners in King county are regularly observed to become become impatient with petitioners who attempt to present evidence of anything other than physical violence or threats of physical violence to support their petition. [REDACTED] There is also a general appearance that the courts are more solicitous to male respondent's denials of allegations of coercive control and are more likely to give them the benefit of the doubt than they would over similar allegations of physical violence.	9/27/2021 11:03 AM
4	not as aggressively	9/24/2021 3:55 PM
5	I think it is considered a factor, but I have not ever heard the court specifically address allegations of coercive control. I have also not brought a request for a protection order solely on the basis of coercive control	9/24/2021 3:22 PM
6	Only when it's part of DV that is defined in the statute	9/24/2021 3:02 PM
7	Depending on race of petitioner; variety of experiences. When allegations of coercive control are stated in addition to physical violence, it can be responded to reasonably well. If it's included in cases with threats, stalking etc and no physical violence, it's often disregarded.	9/24/2021 12:33 PM
8	I make sure that is not the focus of my petition, rather I weave it into the description of the physical abuse. I have learned to avoid the term "coercive control" after seeing a judge roll his eyes when I used the term. Some commissioners identify it as part of their concern, in combination with the physical, most focus on the physical.	9/24/2021 12:31 PM
9	at this time coercive control is not domestic violence, so I haven't seen courts put too much credence into it being in a petition for a DVPO.	9/24/2021 11:43 AM
10	if it's about kids or money-not well. better if it is for example taking someone's phone or controlling who they talk to.	9/23/2021 3:31 PM
11	unknown. Usually do not attend hearings with them	9/23/2021 11:13 AM
12	We try to use evidence of coercive control to corroborate the evidence of domestic violence that meets the current legal definition. Some judicial officers do take coercive control into account as adding to a survivor's credibility but usually remind the survivor that coercive control does not meet the legal definition of domestic violence.	9/21/2021 4:14 PM
13	Typically, the judge/commissioner considers and grants a PO...but, she is a new-to-the-bench commissioner and has not always given weight to coercive control and dismisses the negative impact it may have on the children	9/21/2021 10:32 AM
14	If it helps establish a pattern of abuse, it helps. If it is the "only" abuse, courts treat it as "doesn't count"	9/21/2021 9:03 AM
15	The courts appear to minimize the impacts that the coercive control has on the victim, especially if its a cumulative aspect of behavior over time rather than one isolated incident of physical DV. If only coercive control it can be difficult to be granted a protection order under current legal definitions. The courts are also often asking for documentation on things that may greatly delay or maybe things petitioners do not have access to currently or ever. Such as Child Forensic Interviews.	9/20/2021 11:46 AM

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16	The courts usually ignore any mention of coercive control unless it is stalking. They say it doesn't have to do with the "domestic violence."	9/17/2021 3:36 PM
17	Commissioners seem to focus on physical acts of violence and threats of violence more.	9/15/2021 8:06 PM
18	I discuss the legal definition of domestic violence with my client. I make sure they understand that in order for the judge to issue the order, the Petitioner (my client) will have to convince the judge that what he/she is alleging is more likely than not to be true. I let them know that they can't get an order based on many of the behaviors that their batterer is using to control them. However, the judge is going to have to weigh the credibility of the Petitioner and the Respondent. I encourage to include some information about the use of non-physical coercive and controlling behaviors in addition to the incidences that meet the legal definition. I do this so the judge gets the bigger picture of the context in which the physical violence is happening. I also do this because it is possible that he/she has only been physically violent one time and now he/she doesn't have to use physical violence in order to control the victim. A look, a gesture, or a veiled threat may be enough to control the victim because the victim understands what happens if they don't comply. I want the judge to understand the world in which the survivor is existing.	9/15/2021 6:51 PM
19	Depends on how egregious the examples are of the coercive control are	9/15/2021 4:04 PM
20	Courts with education about parenting and other risks signified by evidence of coercive control tend to facilitate evidence gathering. Courts which lack sufficient education about ACEs, trauma, and gendered violence then to interpret 26.10.010(3) narrowly and overlook, minimize, or misunderstand relevant case law.	9/15/2021 2:20 PM
21	Not sure, our legal advocate helps our clients needing court assistance.	9/15/2021 1:38 PM
22	They at times take that as a pattern and abusive along with the physical abuse.	9/15/2021 8:42 AM
23	Depends on the Judge. Some do take it into consideration	9/14/2021 5:37 PM
24	Favorably, I think. I've never heard to the contrary, but we pair the behavioral DV with instances of legal DV	9/14/2021 4:19 PM
25	I don't feel that the evidence of this has the impact on the cases that it should. Financial control in particular is explained away as an inability of the client to handle finances or that they are mentally unstable in a way that required controlling the finances. In the limited space and time available to submit to the court it is difficult to adequately describe these means of control and so they often can only be summarized in the limited space. Courts generally don't want to read enough submission to see a pattern of control. Local court rules significantly limit the amount and length of written materials, especially at temporary orders stages of family court.	9/14/2021 12:08 PM
26	Varies. Often the coercive controlling behaviors is what sticks out most in survivors' minds and they want to include a lot of information about it in their declarations but most judges are looking only for the physical abuse.	9/14/2021 12:03 PM
27	We have a new judge and commissioner and we don't know how they are responding yet. Sometimes they accept the controlling behavior and sometimes they don't grant PO's based solely on controlling behavior.	9/14/2021 11:48 AM
28	Some courts will not grant an order if there is no indication of physical harm	9/14/2021 11:30 AM
29	It paints a picture of the abusive relationship. Our courts put limited weight on non physical violence.	9/14/2021 11:16 AM
30	The Court system is not very consistent, I have witnessed many times when the opposing party becomes the "victim"	9/14/2021 10:13 AM
31	Depends on the Judge/Court Commissioner presiding over the case. Some state that coercive control is not harmful or a threat that would meet the definition of imminent harm.	9/13/2021 2:42 PM
32	I don't think the judicial system has done a good job recognizing coercive control in DV cases as much as they do physical abuse. I've witnessed judges deny DV Protection Orders when the victim isn't being hurt physically.	9/13/2021 12:55 PM
33	We don't see courts responding to coercive control as a threat of harm. Courts only want to see threatening or intimidating or physical violence in their statements.	9/13/2021 10:56 AM

34 I believe courts are looking for more physical abuse allegations but have responded somewhat to coercive behaviors

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9/13/2021 10:50 AM

## Q8 How do you think courts should respond to allegations of coercive control?

Answered: 36 Skipped: 0

#	RESPONSES	DATE
1	As information supporting the allegations meeting the statutory definition of DV, but not as stand alone reasons for a DVPO	9/27/2021 12:14 PM
2	they should respond very well, and get more training	9/27/2021 11:45 AM
3	Under the current statute, they should see a pattern of allegations that fit common modes of coercive control as tending to corroborate claims of intimate partner and/or gender based violence. They should also be trained in examining and cross examining respondents to claims about coercive control in order to make an independent and factually sound determination of coercive control which is explicit in any findings the court makes regarding the evidence offered regarding that claim.	9/27/2021 11:03 AM
4	the same or greater than physical	9/24/2021 3:55 PM
5	I think they should be considered as seriously as physical abuse - it is often the precursor to worsening issues.	9/24/2021 3:22 PM
6	Coercive control is in many ways worse than physical abuse, and can result in physical abuse (stress and anxiety, headaches, stomach issues, malnourishment, lack of physical freedom) and repression of rights and information needed to take legal action. It should be considered by a judge if coercive control is present and and likely to lead to physical harm	9/24/2021 3:18 PM
7	Similar to accepted definition of DV - this will likely require enshrining it in the statute	9/24/2021 3:02 PM
8	Take it seriously, believe survivors about how coercive control compounds trauma and the ability to distance from abusers. Unconditional positive regard i.e. going into the situation without prejudice or bias. Without victim's past criminalization creating prejudgement on their survivorship.	9/24/2021 12:33 PM
9	I think the courts should recognize that it is a form of DV	9/24/2021 12:31 PM
10	If there is coercive control, it is likely indicative of physical violence. Not always, but many times. I think courts should treat coercive control as DV and enter protections for the victim to get out from under the coercive control.	9/24/2021 11:43 AM
11	courts should think critically about the allegations. courts should be trained on what coercive control is and learn to identify abusive tactics. incorporate it into their decisions.	9/23/2021 3:31 PM
12	With great consideration	9/23/2021 11:13 AM
13	I think that coercive control should be included in the legal definition of domestic violence.	9/21/2021 4:14 PM
14	I believe that the mental harm of coercive control is further-lasting and more pervasive than even the victim realizes, and often not clearly explained to the courts.	9/21/2021 10:32 AM
15	Judicial officers should be held to a standard of professionalism. Right now, there is very little evidence that judicial officers read their bench manual, especially about DV dynamics. There should be a requirement for judicial officers to update their DV/SA dynamics training every year....and that requirement should be written such that judicial officers must actually PROVE they have done so. For instance, teachers have "active shooter training" every year in order to keep their license. It is a canned training (although regularly updated content) that compels the person being trained to observe every slide and take short quizzes to show they did not just "fake it". I understand that coercive control legislation is difficult...because it can be used against survivors. But, we need to think outside of the box.	9/21/2021 9:03 AM
16	The court should recognize that coercive control is as harmful if not more harmful as physical violence. The psychological impacts are often extensive and life altering in that they are	9/20/2021 11:46 AM

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intended to completely debilitate and diminish someone's self worth and self determination. The court should validate these experiences by providing protection through the issuance of a protection order along with specific and enforceable language that addresses the more covert behaviors and defines what constitutes a clear violation.

17	Allegations of coercive control should be taken just as seriously as physical abuse. Relationships that have only coercive control have a high risk of becoming violent. Sometimes survivors depend on a protection order to be able to stay away from the perpetrator. Coercive control can be just as damaging as physical abuse. Survivors say it's the worst part about abusive relationships. Survivors going through coercive control can still be scared for their safety and well being.	9/17/2021 3:36 PM
18	I think Courts should recognize it as part of the broader pattern of abuse that survivors experience, acknowledge the harm it causes and provide relief in the form of a Protection Order.	9/15/2021 8:06 PM
19	I think all judges should be educated about domestic violence and the education should include a thorough review of the ways batterers use coercive control in the relationship. I think judges also need to understand that domestic violence tends to increase in frequency and severity over time. If the non-physical tactics of coercive control are no longer working, the batterer is likely to escalate to physical violence. I think judges need to take all of this into consideration when making decisions regarding whether to issue an Order for Protection.	9/15/2021 6:51 PM
20	Clients have told me that the emotional abuse is much worse than the physical abuse. Emotional abuse never ends and isn't recognized for anything the perpetrator can be held accountable for	9/15/2021 4:04 PM
21	The courts should follow the most promising practices based on peer reviewed research about risks to children and protective parents from ACEs, trauma, and gendered violence. For example, the SAFeR program or other evidence-based program may increase protections and decrease risks to kids and everyone else involved.	9/15/2021 2:20 PM
22	They sure take it seriously because that's one of the reasons some people stay in an unhealthy partner. Sometimes, they say, "he is not physically hurting me." However, when they are controlling every aspect of their life allegations of coercive and controlling behavior should be taken more seriously.	9/15/2021 1:38 PM
23	They should take it more serious in the way it affects victim's decisions.	9/15/2021 8:42 AM
24	Courts, First-Responders, and Advocates should publish an agreed-upon set of patterns of behavior that are considered coercive control. Survivors should be able to include descriptions of these patterns in protection orders and in marriage dissolution cases	9/14/2021 6:04 PM
25	I absolutely believe that they should be educated on this type of control and take it very seriously - it can lead to the situation escalating quickly	9/14/2021 5:37 PM
26	Well, I think the definition of DV under RCW 26.50.010 is generally too limited and should include more coercive control. That said, under the current definition, the courts should view coercive control as vital context which further informs a survivor's experience.	9/14/2021 4:19 PM
27	They should view it as strong evidence that other allegations of abuse are real. It should be viewed as significant corroboration at least. In DV cases if there is not physical evidence of the physical abuse, but there are allegations of that and significant evidence of patterns of coercive control that should make the allegations of physical abuse as much more credible.	9/14/2021 12:08 PM
28	Coercive control, with language that speaks to leveraging power imbalances should be included in the definition of domestic violence for the purposes of getting CIVIL protection orders	9/14/2021 12:03 PM
29	The courts should recognize the damage is sometimes greater and has more long term effects than physical violence	9/14/2021 11:48 AM
30	Overall the courts should have more training to understand how these coercive behaviors harm people.	9/14/2021 11:30 AM
31	Hard question. The courts should understand all aspects of domestic violence. Coercive control is very scary, if there are multiple risk factors the courts should hear those facts. Furthermore, we continue to see those coercive behaviors throughout family law proceedings.	9/14/2021 11:16 AM

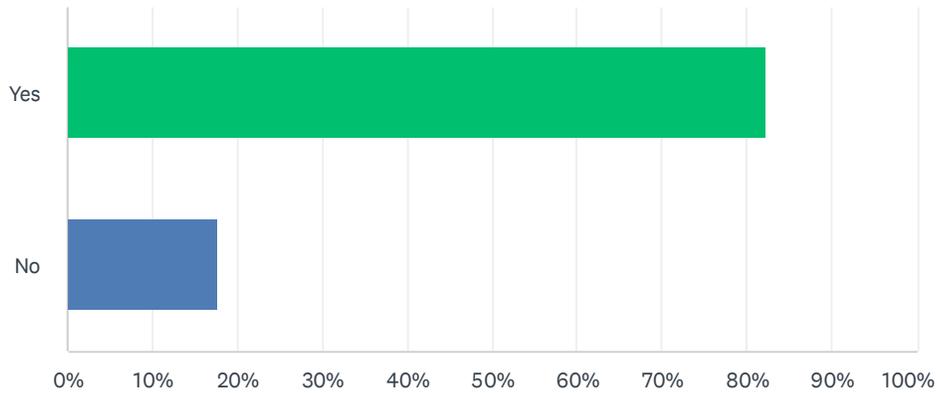
## HB 1320 - Victim Advocate/Attorney Survey

Often times victims are just revictimized by the abuser using the court system. Having a finding of coercive control could help clients moving forward with a family law case.

32	Courts should respond to coercive control same as kidnapping or physical DV. Depriving someone of basic needs or human contact is inhumane. The courts consider it a felony when you do this to animals, what about people??	9/14/2021 10:13 AM
33	Yes, definitely. Courts should consider all acts, and patterns, of coercive control as a definition of emotional and mental abuse, and even often sometimes leads to physical abuse. In my opinion, it is going to be difficult to get all State/Tribal Judges/Court Commissioners to be on the same page with allegations of coercive control because of varying opinions and interpretations.	9/13/2021 2:42 PM
34	This type of victimization can be debilitating and it should be taken seriously.	9/13/2021 12:55 PM
35	I feel that the courts should take these behaviors seriously as an intimation factor into the relationship as it damaging to the victims mental health and confidence. This is scary to a victim as it takes away all choices and control they have and over their children.	9/13/2021 10:56 AM
36	They should be taken extremely seriously	9/13/2021 10:50 AM

**Q9 Are there instances where you think the concept of coercive control could be used against your clients in court? (For example, in protection order cases, criminal cases, family law cases)**

Answered: 34 Skipped: 2



ANSWER CHOICES	RESPONSES
Yes	82.35% 28
No	17.65% 6
TOTAL	34

## Q10 If yes, please provide examples. Please also indicate whether there are any ways that you see to reduce the likelihood of coercive control being used against your clients in court.

Answered: 30 Skipped: 6

#	RESPONSES	DATE
1	The counterintuitive victim behavior is often explained by the perpetrator's use of coercive control. When a survivor does things that seem to conflict with a DVPO, the coercive control should be considered.	9/27/2021 12:14 PM
2	The standard defense of all abusers is often referred to by advocates and literature by the acronym DARVO, which stands for Deny, Accuse, Reverse Victim and Offender. Which is to say everything that an abuser can do to a victim they can and will accuse their victims of doing to them. Courts need to recognize that this is an area where treating males, ie cisgender men and transgender women, as equally likely to engage in coercive control as are females, ie cisgender women and transgender men, is too forgiving of male offenders and sets the bar too high for female victims to prove. Courts need to be encouraged to examine and make credibility determinations based on secondary observations of male respondents, in particular when they display secondary evidence of male privilege or patriarchal chauvinism this should be recognized and regarded as evidence tending to strengthen the allegations of domestic violence/intimate partner violence. given what we know about the relative rates of offending according to gender, that males regardless of gender identity are more likely to engage in coercive control than are females, again regardless of gender identity. There is good evidence that these are disordered behaviors learned during childhood socialization into masculine and feminine gender norms, and this neutralizes difference in gender expression in this area statistically. As a result, all else being equal, the Bayesian prior probability that a female party is engaged in coercive control tactics against a male party is lower than the prior probability that the male party is engaged in coercive control tactics. Given two otherwise equally credible cross accusations between opposite sex parties, the credibility tie should go to the female party as against a male party. This is necessarily true because the higher prior probability that a male will use coercive control behaviors is additional evidence the court should take judicial notice of. In doing so, the court should recognize that this is evidence weighing in favor of the female party. Again, all else being equal, one piece of additional evidence on one side makes it more more probable than not that the female party's claim of coercive control/domestic violence is true. A single piece of evidence, again all else being equal, is all that is needed to meet a preponderance of the evidence standard. Courts should therefore not merely throw their hands up and find they are unable to make a credibility determination when met with the cross-competing, mutually incompatible tales of coercive control. Instead they should recognize the background probability as reliable evidence and make the finding in favor of the female litigant.	9/27/2021 11:03 AM
3	Withholding financial information/coercion plays a big role in obtaining proper child support and in fair and equitable division of marital/community assets.	9/24/2021 3:18 PM
4	Client efforts to protect children from abuse should be understood as protection, not coercion	9/24/2021 3:02 PM
5	Abusers claiming coercive control against victims to disprove allegations, especially regarding children in common. Victim blaming in criminal courts. Also when victims fight back, protect themselves; i.e. keep the children away from abuser when they drink because drinking always led to violence [could be rephrased at the victim controlling the children and visitation, telling the abuser not to drink].	9/24/2021 12:33 PM
6	I put no above, but anything can and has been used against victims. I think training and education of judges is extremely important in making sure that the respondents can't use this against victims. we'd need to be vigilant, the same as we always are for other tools abusers use.	9/24/2021 11:43 AM
7	educate the court about mental health and abuser tactics. learning about how survivors survive and what may appear as withholding child for example is setting boundaries. encourage survivors to document conversations with abuser, build up a body of evidence.	9/23/2021 3:31 PM

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8	If there is substance use going on in the household or if client is depressed from living situation.	9/23/2021 11:13 AM
9	Abusers will find ways to try to use coercive control against survivors--abusers may try to use protective behaviors by a survivor as evidence of coercive control. Any definition of coercive control should include an analysis of the power dynamic in a relationship and the purpose of the action/behavior.	9/21/2021 4:14 PM
10	The offender is likely to say that the victim equally exhibits coercive control, making it difficult for the courts to figure out whom to believe is the victim in the relationship. If both parties claim coercive control, the court will understandably have trouble making good decisions.	9/21/2021 10:32 AM
11	Abusive Partners file "counter" DVPOs. Abusive partners cry foul and put on dramatic scenes of their being the victim. There are too many examples to list, but a recent one: There is no reason for the court to take my guns from me. I held a top secret clearance once, so I am a good guy. Oh, I also noted an abusive partner PLANTING a gun in the survivor's nightstand (while on a civil standby) to then accuse the survivor of using a gun against him. To reduce this: STOP allowing judicial officers to pretend it does not happen. STOP allowing law enforcement to pretend it doesn't happen. Hold these "professionals" to a high standard (or, for crying out loud...to a medium standard...which would be an improvement). Professionals SEEK annual training on notable topics in their profession. That is NOT happening for judicial officers and law enforcement.	9/21/2021 9:03 AM
12	Whatever definition of domestic violence or coercive control is; the abuser will seek to try to manipulate to their benefit. We would expect this to continue to show up around family law and mental health. We often see abusers try to present themselves as the victim and use these issues to try to manipulate the court by undermining the petitioner's credibility and use the children as pawns. Especially in cases where the petitioner (primarily the mother) has reported allegations of sexual abuse of her children or herself. These allegations are often deemed as unsubstantiated by the court and often have been used to further undermine the petitioners credibility. The requests of the court for access to documents such as child forensic interviews, and the courts lack of understanding of sexual abuse, childhood disclosures, investigation timelines and process have set up the petitioner to not be believed and in many cases have undermined their ability to get any protections. Anecdotally, it has appeared that reporting the sexual abuse allegations in regard to their children or themselves may actually decrease their chances of protection and increase the abusers access to the children and potentially full custody. Recommendation are that there is an explicit definition for coercive control, and education around DV, coercive control, psychological impacts and trauma, IPSV, sexual and physical abuse of children, child disclosures, review and education of how historically misogynistic laws continues impact women today.	9/20/2021 11:46 AM
13	I could see this being used against clients by abusers claiming coercive control. I'm not sure how to reduce the likelihood, but believe the benefits still out way the risks.	9/17/2021 3:36 PM
14	Every definition and tool used by those in the criminal and civil justice systems to identify and assist victims of DV, Sexual Assault and stalking will also be weaponized by abusers who want to use the system to further harm their victim. That will always be the case. The way to reduce the likelihood of these instances is by adequately training law enforcement, judicial officers, advocates, and service providers to understand the dynamics of DV/SA cases and critically examine the pattern of behavior. Expanding the definition of DV to include coercive control forces those involved in the system to do just that.	9/15/2021 8:06 PM
15	I have seen victims of domestic violence get arrested far too many times because the officers do not do a full investigation. They don't look at the context in which the violence occurred. They too often just decide that the person who hit first is the primary aggressor and they don't ask the right questions. For example, the batterer blocks the victims ability to leave (blocks the door or corners them in a room), the victim pushes or even hits the abuser in order to get away. LE comes and the fact that the person was being imprisoned is ignored because she hit him. If law enforcement still struggles with determining primary aggressor, I do not have confidence that they will be able to navigate and understand the context in which behaviors they may believe are coercive control that may actually be protective behaviors on the part of the victim. Some examples: 1. The victim won't allow contact with a child because of concerns for the child's safety. LE may see that as coercive control. 2. The victim might take money out of the joint bank account in order to escape the abuse but LE might see that as financial control. 3. The victim may engage in name calling and yelling but LE may fail to examine the context. LE doesn't look at who is truly in control within the relationship. Is the victim reacting	9/15/2021 6:51 PM

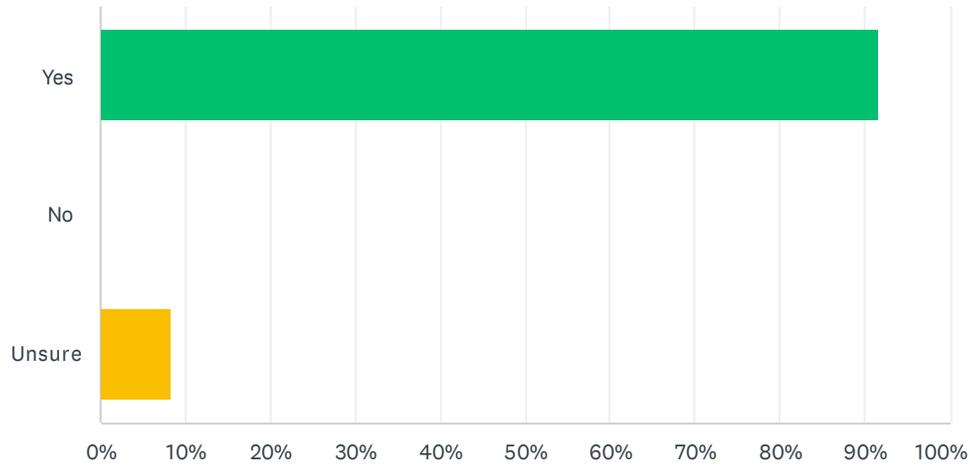
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out of frustration rather than a desire to control or break down the victim. We have to keep in mind that batterers are manipulative and often very smart. They are very good at convincing others that their partner is "psycho" and batterers are good at convincing others that they are the "victim".

16	Financial abuse can determine the outcome of family law matters decisions. If the courts would recognize this type of control and how it effects the outcome of the case the survivor could benefit with a more fair outcome.	9/15/2021 4:04 PM
17	My examples would mirror how current laws are used inadvertently or in bad faith against clients in court and would not justify refusing to enact new, protective laws that address coercive control. For example, the notion of "abusive use of conflict" in 26.09.191(3)(e) can be misused to wrongly argue that a protective parent is actually trying to create discord.	9/15/2021 2:20 PM
18	Not completely sure but I could see them claiming that they where willing participants because the victim did not say no or called the police.	9/15/2021 1:38 PM
19	The most that i have hear is the abandonment of the children.	9/15/2021 8:42 AM
20	I don't have examples but I am sure such a possibility exists.	9/14/2021 5:37 PM
21	I don't understand this question.	9/14/2021 4:19 PM
22	Abusers invariably accuse the other party of mental instability. Financial control then sounds reasonable as a result of the accusers supposed "manic" episode or other similar accusations.	9/14/2021 12:08 PM
23	Abusers will most likely try to allege that survivors have engaged in coercive control because they are adept at manipulating any and every system against victims. To reduce that likelihood, the remedy for violations of protective orders that are future acts of coercive controlling behavior should only be through civil contempt. The definition should incorporate leveraging societal power dynamics against the victim. In addition, there should be requirements that judges/ commissioners NOT be permitted to sit on these dockets without interactive, comprehensive training.	9/14/2021 12:03 PM
24	When a couple with DV in their relationship have to go to mediation the victim of the abuse does not have the ability to be treated justly. The victim can't ask for what they think is fair out of fear of retribution from the perpetrator. Mediation needs to be replaced with the judge taking a more active role in DV cases.	9/14/2021 11:48 AM
25	Its the crazy making victim defendant situation. Some people are so skilled at turning it around to make them selves look like a victim, where the police and courts believe the perpetrator. Increase legal representation options for victims who have due to coercive control not been able to speak on their own behalf, putting examples of the coercive control in the petition so when the behaviors are displayed in court, the judge might recognize it.	9/14/2021 11:30 AM
26	We see attorney's flip coercive control to make victims look unstable and not credible. Example "you tried to harm yourself, so you are a danger to your kids and you are unstable."	9/14/2021 11:16 AM
27	Many times I hear the victims shaming themselves saying "I wish I would have left " I could see this being used against them.( I have seen it done before.) One way I see the likelihood of this not happening is by having adequate judges on the other side.	9/14/2021 10:13 AM
28	Potentially for self defense and self preservation to protect themselves, children or others in the home.	9/13/2021 2:42 PM
29	This provides outside entities to think that the victim is unable to protect herself or her children as the victim has no control of her daily life and/or protective skills. This does not mean the victim does not want or need protection.	9/13/2021 10:56 AM
30	Clients may loose children if they stay in an relationship due to the abuser's coercive behaviors, due to failure to protect	9/13/2021 10:50 AM

### Q11 Overall, do you think courts should consider “coercive control” when ruling on a civil protection order petition, or not?

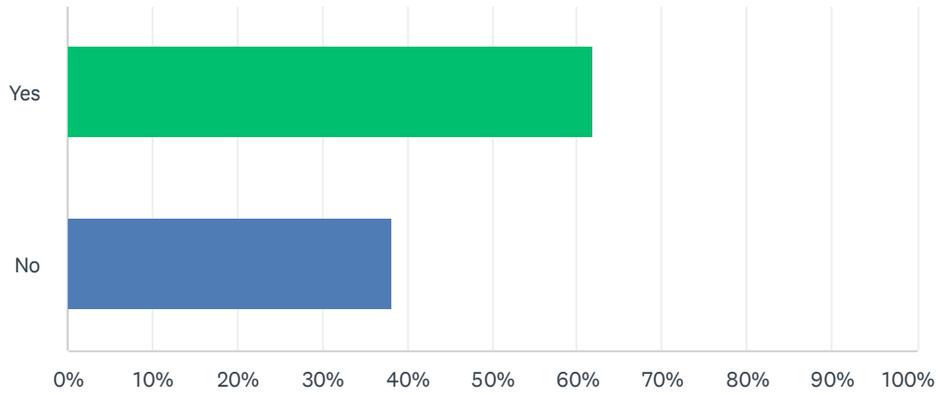
Answered: 36 Skipped: 0



ANSWER CHOICES	RESPONSES	
Yes	91.67%	33
No	0.00%	0
Unsure	8.33%	3
TOTAL		36

### Q12 Do you have a preference for whether a case is handled in a municipal court, district court, or superior court? (Yes/No)

Answered: 34 Skipped: 2



ANSWER CHOICES	RESPONSES	
Yes	61.76%	21
No	38.24%	13
TOTAL		34

## Q13 If yes, why is it important?

Answered: 24 Skipped: 12

#	RESPONSES	DATE
1	The Superior Court bench sees a lot more DVPOs because of all the family law cases and seems to be more sensitive to DV survivors, and better understands counterintuitive victim behavior than do the District Court judges.	9/27/2021 12:17 PM
2	Certain courts are better than others. among municipal courts certain judicial officers have more extensive training and experience regarding protection order cases than others and their jurisdiction will be more desirable for attorneys representing survivors. The opposite will be true of attorneys representing respondents. For now, in King County at least, uniformity in evidentiary findings within a court is often more than the judiciary is able consistently to provide. Expecting uniformity between courts, at least in the short term, may be too much to seek to accomplish while the pandemic continues to disrupt court operations. However, such consistency between jurisdictions should be a goal set by presiding judicial officers and pursued to the extent that it is possible at any given time as any improvement on this practical requirement for forum shopping would be welcome.	9/27/2021 11:15 AM
3	Our program as access to superior court records, but not district or municipal court records. Also, the perceived authority of the superior court may help with enforcement, deterring violations of an order.	9/24/2021 3:21 PM
4	As long as fact finders have adequate and quality DV training	9/24/2021 3:03 PM
5	In superior court, the judges and commissioners have more training and expertise in domestic violence and protection orders since they do it all the time. Whereas in district and municipal court, the clerk's office and commissioners operate in a siloed atmosphere with different knowledge and experience. A domestic violence protection order is a rare occurrence, and are often not handled in any trauma informed way. Also the filings in superior court enter into odyssey whereas district court does not so it is more difficult for a victim to track it and find the information.	9/24/2021 12:38 PM
6	Since my experience with protection orders is only in superior court, I have concerns about the familiarity with the laws in muni and district.	9/24/2021 12:36 PM
7	training. it should be in superior court.	9/24/2021 11:45 AM
8	prefer superior court. more resources and support in the courthouse. court is more educated about dv. easier to anticipate.	9/23/2021 3:38 PM
9	If it is Superior Court it could be tied into the family law case.	9/23/2021 11:23 AM
10	Superior court hears family law cases and most DVPOs are closely connected with the family law case so they should be heard in superior court as are family law cases. Also, superior court is more equip to handle DVPO cases and training can be focused on superior court judicial officers.	9/21/2021 4:17 PM
11	Specific to my county: there is a strong tendency for district court to lean toward a very narrow interpretation of DV, and to deny temporary orders outright.	9/21/2021 9:06 AM
12	It should be available at all for access to the victim. Limiting access especially in many counties could create barriers for victims to access protections.	9/20/2021 11:55 AM
13	It depends on what the victim wants, but most want some form of behavioral, drug/alcohol, or mental health treatment for the defendant. My biggest concern in highly-lethal DV cases is always post-conviction supervision. The level of supervision imposed onto defendants after sentencing depends largely on jurisdiction. Smaller jurisdictions sometimes have more resources for supervision. For example, many felony cases filed in superior court that resolve with misdemeanor convictions often result in little to no actual post-conviction supervision as the Dept. of Corrections has their own standards and guidelines which determine who they will supervise and how. Whereas if that same defendant had been convicted of that same	9/15/2021 8:30 PM

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misdemeanor in the Seattle Municipal Court, treatment conditions would likely be enforced and more thoroughly supervised. In Civil cases, I have found the experience survivors have largely depends on the exposure/training, or lack thereof, the commissioner or judge has had regarding the underlying dynamics of DV and SA cases.

14	I wouldn't have a concern if I believed that all judges at every level were receiving the same quality of training. Superior court seems best suited to hear these cases but I also am very cognizant of the need to make access to protection a priority. For some people, it is far more difficult to make it to the location of the Superior Court and being access protection through a Municipal Court will be far more beneficial to them.	9/15/2021 7:06 PM
15	All POs should be heard in Superior Court. It seems like they are more fair and knowledge about domestic violence dynamics. Also it gets confusing to survivors (and advocates) when there are so many different courts that POs go through	9/15/2021 4:09 PM
16	It's very important for a case involving subtle evidence relevant to the long term safety and well being of children or adults to be heard in superior court. Among the reasons are protection of access to justice by indigent, disadvantaged or marginalized groups, avoiding trivialization of gender and race equity issues, judicial economy, and the complexity of issues for adjudication.	9/15/2021 2:35 PM
17	N/A	9/15/2021 1:43 PM
18	Not all Judges see coercion as a type of abuse in the different courts.	9/15/2021 8:46 AM
19	whatever the process it needs to be clear, and the judicial officers need to be trained	9/14/2021 1:07 PM
20	Superior court is essential for handling domestic abuse because they will also be involved in the family law case. It is very frustrating such a high percentage of DV cases are only assault 4 and are charged in district court and often treated less seriously than similar assaults that are not between family or significant others.	9/14/2021 12:12 PM
21	Superior Court seems more serious to some people and the police may find those PO's more serious when investigating breaches to the PO by the perpetrator. If there is a breach the complaint goes to the Prosecutor's office if the PO is heard in Superior Court rather than the City's Attorneys office. So, the consequences may be greater if it is heard in Superior Court.	9/14/2021 11:58 AM
22	In our county the Family Court Commissioner in Superior court is knowledgeable about domestic violence dynamics and has a more thoughtful educated framework for decision making.	9/14/2021 11:40 AM
23	Superior Court. In San Juan County we only have one judge for Superior and one judge for District. It helps that the same judge oversees the PO and family law case.	9/14/2021 11:18 AM
24	My experience has been that cases are taken more seriously when they are handled in superior court.	9/13/2021 1:08 PM

## Q14 In your experience, what happens when a protection order petition is filed in the wrong court? For example, when it is filed in district court but it should have been filed in superior court, or vice versa.

Answered: 30 Skipped: 6

#	RESPONSES	DATE
1	It get dismissed with instructions to refile in the proper court.	9/27/2021 12:17 PM
2	they are very rude about it. but it shouldn't be the clients fault. who ever is handing out the papers should know which po they give the client	9/27/2021 11:47 AM
3	Often the clerk of the court will reject the petition for a pro se litigant. This is, of course, incorrect because the DVPA makes clear that any court can initiate a protection order and simply needs to transfer the case after setting an initial return hearing on an ex parte petition for an immediate protection order.	9/27/2021 11:15 AM
4	I have not seen this problem.	9/24/2021 3:21 PM
5	Transferred to superior. Only experience I have. Sometimes clients don't understand that it is now in a different court. I've had several clients, LEP in particular, who had filed in District and did not understand that the return hearing was in Superior, so the case was dismissed. I could see this after the fact.	9/24/2021 12:36 PM
6	courts handle it differently, sometimes a case is dismissed and client has to start over.	9/24/2021 11:45 AM
7	if it is filed in district court the survivor usually doesn't have help and the declaration is so short and doesn't articulate what is needed to meet the burden of proof. sometimes this results in a denial of a dvpo which empowers the abuser and impacts a custody case negatively.	9/23/2021 3:38 PM
8	I'm not aware of them being filed in district court in our county. And if they were it would be important for the statements and information to be provided to a Judge to consider the full matter.	9/23/2021 11:23 AM
9	Most of the time, the case is transferred to the correct court.	9/21/2021 4:17 PM
10	The court clerk sends the petitioner back to the other appropriate court clerk.	9/21/2021 10:34 AM
11	Judicial officers usually inform the person in the court it was misfiled, and informs them how to refile appropriately.	9/21/2021 9:06 AM
12	In most cases the burden falls on the petitioner to either re-file or contact the court to make sure the referral has been made, often when referred by one court to the other they don't make it on the calendar and there is often much confusion and extremely difficult to locate the case. Without an advocate most petitioners would have to re-file and go through the whole process again, facing the same challenge with missed work/school, child care, language and on going safety issues while remaining unprotected. Courts generally put this burden to on the petitioner and it creates so much unnecessary delay and misuse of resources and time for petitioner and the courts.	9/20/2021 11:55 AM
13	I think the court should transfer it to the appropriate court to keep the survivor from having to jump through hoops and live through the experience more than they should have to.	9/17/2021 3:43 PM
14	Several times, I have seen survivors chastised by the Court and had their petitions denied for filing in the wrong court or filing a petition for a SAPO instead of a DVPO (because that is the paperwork the clerk gave them when they said they had been raped). It is incredibly frustrating to see this occur because it really discourages the people who need help the most from seeking it.	9/15/2021 8:30 PM
15	In my experience, this can be overwhelming for the victim. The victim may have taken a day off from work, arranged for child care, and worked up the courage to go to court to ask for protection. If they are told by the court that they can't help them and that they will have to go	9/15/2021 7:06 PM

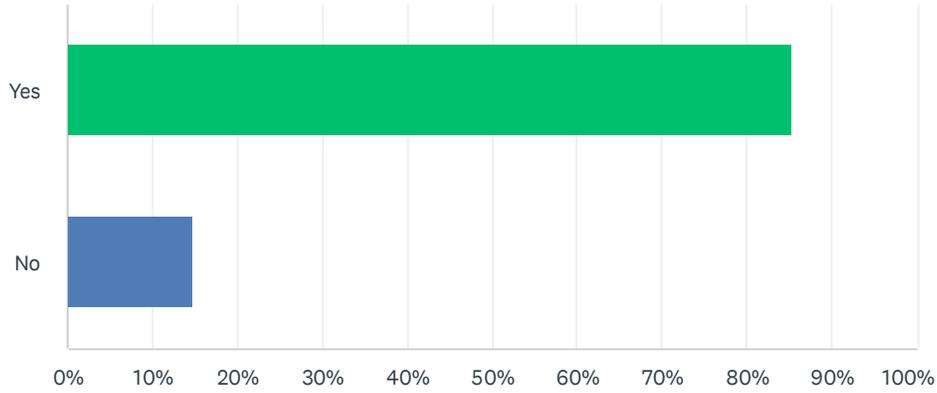
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somewhere else, it can create a significant barrier for the victim and the victim may give up. Some of these barriers can be related to transportation (no money for gas, lack of public transportation, broken down vehicle, etc...) , inability to take time off from work either out of fear of consequences from their employer or because they can't afford to miss any more hours of pay. It has also been my experience that court staff aren't always very kind or helpful when turning someone away. The victim may feel defeated after having a negative experience and won't try again.

16	It delays the process, temporary orders may not get granted in a timely manner putting the survivor in danger in some occasions. Also the survivor has to return to the courthouse to turn it in to the other court and if there is transportation barriers this may cause additional hardships	9/15/2021 4:09 PM
17	There should be no "wrong court" when it comes to filing protection orders. The petitioner should file a simple petition where it's most convenient for the petitioner to file. In addition, the "type" of protection order (AHO, SAPO, DVPO, VAPO, ERPO, etc.) that fits the remedy should be granted if supported by evidence. The current labyrinth of procedures and forms imposes racially disproportionate and inequitable burdens on petitioners, esp. pro se litigants, and there's too little help from civil legal aid, pro bono, and court-annexed staff.	9/15/2021 2:35 PM
18	Usually, they will let the person know that they need to file the protection order with the other court.	9/15/2021 1:43 PM
19	When you have a good relationship with staff in the court system, they are pretty helpful and it's just a matter of taking to the right court.	9/15/2021 8:46 AM
20	They make the case be kicked up or down to the correct court	9/14/2021 5:38 PM
21	I've only dealt with this once, but it didn't seem like a huge deal. It was transferred to the correct court pretty seamlessly.	9/14/2021 4:21 PM
22	survivors are turned away and told they need to file at the other court	9/14/2021 1:07 PM
23	The court in our county generally notices this quickly and will move it.	9/14/2021 12:12 PM
24	The District Court won't accept them if they are filed in the wrong court and Superior Court clerks won't accept them if they belong in District Court.	9/14/2021 11:58 AM
25	The court clerks are overall very helpful and assure we are filing in the right court. On the other hand we have a district court clerk who has recently refused to take two separate DV PO petitions because there is a no contact order in place from a criminal matter and "its the same thing and just makes more work for us".	9/14/2021 11:40 AM
26	Don't usually see that happen in San Juan County	9/14/2021 11:18 AM
27	Court Clerk's have always been very courteous in assisting victim advocate's filing PO's be completed correctly and that the filing be conducted in the correct court and in the correct jurisdiction. When there has been confusion as to correct jurisdiction in State/Tribal Court PO's have been filed in both Court jurisdictions.	9/13/2021 2:55 PM
28	It puts the victim at a disadvantage and/or the case could be dismissed all together, at which time the victim may not want the processed delayed any further. It causes stress to the victim, more hearings, more cost(s), etc.	9/13/2021 1:08 PM
29	They deny the order and kindly let us know what court the order needs to be filed with.	9/13/2021 10:58 AM
30	It is dismissed and client is told to go to correct court	9/13/2021 10:52 AM

### Q15 Do you have concerns that people not completing paperwork correctly results in delays, including transfers to a different court?

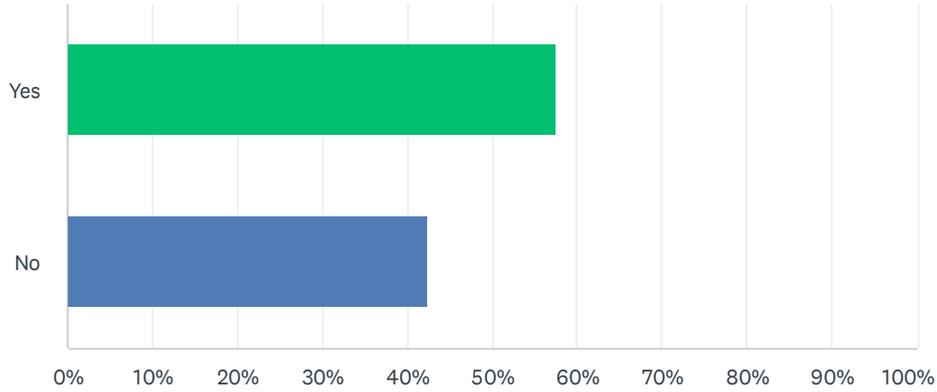
Answered: 34 Skipped: 2



ANSWER CHOICES	RESPONSES	
Yes	85.29%	29
No	14.71%	5
TOTAL		34

Q16 For your clients, is being able to file in a nearby municipal or district court better than being told to go file somewhere else, even if the petition then has to be transferred to superior court?

Answered: 33 Skipped: 3



ANSWER CHOICES	RESPONSES	
Yes	57.58%	19
No	42.42%	14
TOTAL		33

## Q17 If yes, please explain why.

Answered: 25 Skipped: 11

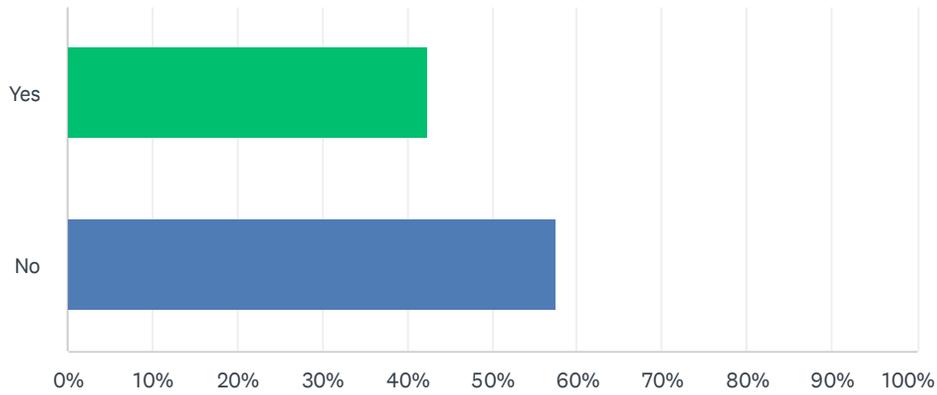
#	RESPONSES	DATE
1	The process will start without the client having to refile	9/27/2021 12:17 PM
2	yes it is already a stressful thing to do, and we should make it as easy for them as possible	9/27/2021 11:47 AM
3	Regardless of financial resources, survivors of coercive control are often limited in their transportation options by their abuser. As such they need to be assisted with filing their cases anywhere that they can get to without regard to which court needs to enter a final order on the petition.	9/27/2021 11:15 AM
4	they should be able to file where they are able to get to	9/24/2021 3:56 PM
5	It is traumatic to have to file. It would be better for clients if they do not have to relive that experience because they were not aware of the legal system.	9/24/2021 3:23 PM
6	I'm not sure I have a basis for this belief since my experience is limited to my above concern. It's also difficult now that in King, virtually all interaction with the court is virtual	9/24/2021 12:36 PM
7	i would get confusing for clients transferring cases, there is no help at municipal or district court, and now people can file remotely.	9/23/2021 3:38 PM
8	It's not happening in the county that I'm in but it might speed up immediate orders if victims didn't have to make it to County Superior Court. For some victims that is quite a distance.	9/23/2021 11:23 AM
9	This allows more access to the courts although if remote filing remains an option than this may not be as much of an issue.	9/21/2021 4:17 PM
10	I do not really understand the implications of this, because this specific scenario does not seem to happen often.	9/21/2021 9:06 AM
11	If petitioner is present and ready to file to send them off to another court would be like someone showing up at the ER for an emergency and being asked to go to another hospital even when they need to be seen immediately.	9/20/2021 11:55 AM
12	I've never had a client go through this, so I am unsure.	9/17/2021 3:43 PM
13	Being able to file online is ideal. For many survivors, it can be difficult to take a whole day off work, find childcare, figure out transportation, etc... to spend an entire day petitioning for an order in superior court.	9/15/2021 8:30 PM
14	The victim needs to be able to go to any court and leave with at least temporary protection. They also need to receive referrals to community based organizations who may be able to assist the victim with overcoming barriers to getting to court for the full order hearing.	9/15/2021 7:06 PM
15	We should work toward "no wrong court" when it comes to protection orders, and we should work toward fewer forms for petitioners to use. We as attorneys and judges should assume more of the burden to determine which remedies and procedures we're required to apply to quickly reach the merits of a petition once the petition is filed.	9/15/2021 2:35 PM
16	N/A	9/15/2021 1:43 PM
17	In Douglas County, the Superior Court is pretty far away at least 25 minutes away, compare to the district/municipal that would be 5 minutes.	9/15/2021 8:46 AM
18	Some clients don't have access to transportation. That is a big barrier when it comes to filing	9/14/2021 5:38 PM
19	the burden on survivors having to take more time off or do other forms may dissuade them from being able to access the protection	9/14/2021 1:07 PM
20	Filing in local courts might be helpful in very rural situations with great distances. But superior court will feel much safer for my clients and less likely to be influenced by court knowing of the	9/14/2021 12:12 PM

## HB 1320 - Victim Advocate/Attorney Survey

	parties reputation.	
21	The client is already in crisis and being told they are in the wrong place is difficult and I think sometimes they just give up instead of going to the correct Court. If the District Court and the Superior Court would make the transfer it would probably result in more PO's being filed.	9/14/2021 11:58 AM
22	First, this is the process in Clallam County here folks can file in district court and then its transferred. In answer to your question= if they had to go to superior court it would be hard- transportation is hard for one, child care etc etc	9/14/2021 11:40 AM
23	Some court processes are more expedient than others and trying to get a PO filed for immediate protection can be difficult in some Court giving the client a sense of relief and potential protection. The wrong court may cause a delay however the client knows the reason why and the PO is being addressed.	9/13/2021 2:55 PM
24	Pend Oreille County is pretty rural. This won't cause much of a delay for most of our clients. This may create more of a challenge for clients our Airway Heights Office (Spokane County) serves.	9/13/2021 1:08 PM
25	When there are too many steps clients become, impatient, confused, or feel let down, as having failed, and often give up	9/13/2021 10:52 AM

### Q23 Have your clients ever experienced an issue with conflicting orders from state and Tribal court, state and military court, or from Washington and another state?

Answered: 33 Skipped: 3



ANSWER CHOICES	RESPONSES	
Yes	42.42%	14
No	57.58%	19
TOTAL		33

## Q24 If yes, what was the outcome?

Answered: 18 Skipped: 18

#	RESPONSES	DATE
1	Usually an informal conference between the different courts to assess which has the best jurisdiction. After that, the court with the superior claim to jurisdiction will retain jurisdiction and the others will dismiss to allow that court to issue the only order.	9/27/2021 11:39 AM
2	Protection order denied	9/24/2021 3:08 PM
3	We have a conflict calendar that is intended to be utilized. It is under-utilized.	9/24/2021 12:41 PM
4	n/a	9/23/2021 3:46 PM
5	Law enforcement may not take action to enforce an order if there are conflicting orders.	9/21/2021 4:20 PM
6	Actually, my real answer is "I have not seen it"...which is not to say "no". I have seen our courts conflict with themselves. That is, courts that have competing orders, such as cross DVPOs (yes, you heard that right), DVPOs that conflict with NCOs. ets	9/21/2021 9:23 AM
7	Generally it is confusion overall...	9/15/2021 8:37 PM
8	Generally, I have heard the judge explain that if there are multiple orders in place, the respondent must follow the most restrictive order. However, that is easy for the judge to say and not so easy for law enforcement to determine. Conflicting orders are confusing and when there is confusion, I believe victim safety is more likely to be compromised. Offenders don't get arrested because LE doesn't know which order to enforce. If arrests are made, the prosecutor may be reluctant to charge. Defense attorneys can convince juries that the violation was intentional and was in fact the result of confusing and conflicting language.	9/15/2021 7:25 PM
9	Order that weren't entered in the system correctly and so law enforcement couldn't issue violations of the PO	9/15/2021 4:21 PM
10	This has happened more than once so it would require more space to address. In sum, the procedures I've seen applied have felt ad hoc, inconsistent, unpredictable, and tough to navigate, even as an attorney who practices in this area of law.	9/15/2021 2:54 PM
11	N/A	9/15/2021 1:49 PM
12	If client chooses to get a new order in the county they live they can do that as well.	9/15/2021 8:49 AM
13	depends on the courts	9/14/2021 5:43 PM
14	A PO is not granted if there is one in another state.	9/14/2021 1:28 PM
15	N/A	9/14/2021 12:16 PM
16	Getting people served in another state is hard. Our local district court clerk finds this very difficult to determine where to send things for service and forms get passed around. Its frustrating and causes delay. a couple of times the burden was put on the petitioner.	9/14/2021 11:48 AM
17	Tribal jurisdiction may grant the PO however the State jurisdiction may not, or visa versa. Jurisdictional issues as to where the PO should be filed or where the scope of the protection is needed (count or reservation) has become as issue.	9/13/2021 3:05 PM
18	I have seen a Superior Court question the renewal of a Tribal Court Protection Order. Because my client was concerned that her Protection Order wouldn't be upheld/enforced across jurisdictions, my clients did a protection order in the county court where she resided as well.	9/13/2021 1:24 PM



**H.B. 1320**

**Civil Protection Orders**

**Listening Forum Report**

**September - October 2021**

## Introduction

In accordance with [Chapter 215, 2021 Laws](#), E.S.S.H.B. 1320, Civil Protection Orders, for the purpose of furthering the goal of modernizing and streamlining the efficiency and accessibility of laws relating to civil protection orders, the Washington State Women’s Commission (“WSWC”), hosted eight listening sessions across the state to hear directly from domestic violence and sexual assault survivors, survivor advocates, and other interested stakeholders.

The purpose of the Listening Forums was to support the work of the Gender and Justice Commission of the Washington State Supreme Court, and to gather input directly from advocates and survivors about their experiences seeking and obtaining Civil Protection Orders, and to identify areas in need of improvement to existing processes.

Though originally intended to be held in-person, due to the COVID-19 pandemic, the WSWC held these eight listening sessions online, through a Zoom meeting format, providing appropriate levels of anonymity and confidentiality where necessary, in order to facilitate open and candid input from survivor advocates and directly impacted members of the community. Each session lasted roughly an hour and a half.

The sessions were scheduled to target geographically diverse areas around the state, although participation in meetings was not limited to participants only from those targeted locations. Many participants attended the meeting which best fit their schedule versus the one scheduled for their geographic location. The identified geographic locations included Spokane, Whatcom County, Bellingham, Yakima, Walla Walla, King, Pierce, Thurston, and Clark Counties. WSWC also scheduled an additional forum specifically for directly impacted domestic violence and sexual assault survivors, for which the WSWC sought to provide additional level of privacy. Fifty-two survivors, survivor advocates, and survivors’ representatives participated in the eight listening sessions.

The Listening Forums were facilitated by Grace Huang, Chair of the Safety Committee of the Washington State Women’s Commission, Director of Policy for the Asian-Pacific Institute on Gender-Based Violence, and Member of the American Bar Association Commission on Domestic & Sexual Violence. Commissioner Huang provided participants with background information on E.S.S.H.B.1320 and facilitated the listening sessions following a list of standardized questions that had been prioritized by the coordinators of the H.B. 1320 workgroup of the Washington State Supreme Court Gender and Justice Commission.

These questions were used to structure the sessions, so each session was uniform in organization. Time was then allowed for any additional input that participants wished to share but did not fall under the pre-set Q&A format. This report presents an overview of the input provided by the advocates, stakeholders, and survivors that participated.

This report categorizes issues based on the Gender and Justice Commissions priority question topics: Inclusion of Coercive Control in the Definition of Domestic Violence, Harmonization of Jurisdiction, and Best Practices for Minor Petitioners and Respondents as well as additional pertinent feedback.

## Priority 1: Inclusion of Coercive Control in the Definition of Domestic Violence

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*“The headline is absolutely Yes!  
We should add coercive control!”  
-DV Survivor*

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When asked whether coercive control should be included in the legal definition of domestic violence, the overwhelming majority of participants, across the state, agreed that coercive controlling behavior needed to be given more judicial weight than currently being considered by civil protection order courts. According to survivors and survivor advocates, examples of coercive control are currently already being included in protection order petition narratives. Stakeholders reported petitioners citing coercive controlling behaviors such as isolation from support systems and communities, financial control (bank accounts, debit cards, EBT cards, etc.), threats to immigration status, withholding or threatening to withhold one’s child, withholding access to medical and reproductive healthcare, gaslighting tactics, acts of violence as an intimidation tactic (i.e., breaking things, throwing things, threats of harm to loved ones or pets), and abusive litigation tactics. However, the weight applied to claims of coercive controlling behaviors, as the law stands currently, is highly subjective and being inconsistently applied by different courts across the state.

*“We know that in relationships and domestic violence relationships it doesn't start out with the sexual assault. It doesn't start out with the strangulation or the stalking. It starts with the coercive control and by not including it what we're basically saying is that we're allowing Survivors to experience extreme trauma, and it has to rise to a certain level before we'll even take it seriously and there's just so much that can be prevented if courts really included that.”  
-DV Stakeholder*

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To counteract the described subjectivity and inconsistency when interpreting the impact of coercive control in protection order cases, stakeholders across the state recommended increased mandated education for judges and commissioners on what coercive controlling

behaviors are, how coercive control manifests in a relationship, the harm those behaviors cause, and how early intervention could prevent future harm.

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*"I know sometimes it's difficult to get education to judges and have them really understand at that deep level, but it's certainly worth the effort to continue to try to do that."*

*-DV Advocate*

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*"My big thing is that I really, really want the courts to be compelled to learn about the dynamics of domestic violence, all the aspects of it ... until they get additional education, they will likely make wrong decisions. I think especially when it's not the traditional scenario, like when you have a same sex couple."*

*-DV Advocate*

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When asked if survivors and stakeholders are concerned that the addition of coercive control to the definition of domestic violence could be used by abusers against victims, most participants opined that abusers already use the courts and the current system to further the control of the survivor. The majority opinion was this concern should not dissuade the Legislature from adding coercive control to the domestic violence definition.

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*"Abusers are already using the system. They are already manipulating the system. This is not about expanding the abuser's power through adding coercive control. This is making sure victims and survivors have more tools and resources available. Let's stop just focusing on what abusers can do and can we really focus on what survivors are saying that they need."*

*-DV Stakeholder*

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However, there were a few differing opinions on this topic. One participant expressed apprehension with adding coercive control to the definition of domestic abuse over concern that it could pull coercive control into a separate filing category from physical domestic violence matters. In that case, the advocate expressed concern this could distract from the petitioner's ability to paint a complete picture of the abuse and abusive behaviors endured for the court's consideration. Another concern raised was about the wording of the definition, because if the definition is not carefully constructed, survivors could fall victim to unintended and unforeseen consequences. One advocate made reference to the unintended consequences of the "mandatory arrest law" which had been widely advocated for by domestic violence survivors,

advocates, and organizations, but has resulted in some survivors who seek help from law enforcement having been arrested, further burdening them and contributing to their trauma.

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*“Thinking about mandatory arrest, how that was really advocated for because it was thought that that was really going to make the difference... but in the end, did not serve survivors or meant that they got arrested instead. There was an outcome that was not even seen as a possibility. So, it does feel that way in this situation as well ... there's that potential for it to be something that works against a survivor rather than for survivor. Do we have what we need to in order to make that distinction?”*

*-DV Advocate*

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Another repeatedly expressed theme statewide was survivors frequently described greater ongoing hurtful impact of abusers’ coercive controlling behaviors in comparison to the physical abuse they had endured.

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*“In support groups, survivors tend to talk about coercive control way more than they ever mention physical violence.”*

*-DV Legal Advocate*

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## **Priority 2: Harmonization of Jurisdiction**

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*“I think the more accessible we can make it for people the better it is.”*

*-DV Legal Advocate*

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Participants were asked about their experiences with filing for protection orders and in which court they would like to see the petitions addressed. The majority of stakeholders who expressed an opinion, expressed a preference for protection order cases being handled in Superior/Family Court, regardless of whether children are involved. Many participants expressed because domestic violence implicates a family dynamic, Family Court is more appropriate for protection order hearings given the experience of the judges.

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*“I think every protection order should be seen in Superior Court... These are serious crimes in my opinion, sexual assault, domestic violence, even, acts of harassment -- I think those warrant to be seen in a Superior Court setting.”*

*-DV Legal Advocate*

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More pressing than the issue of court jurisdiction for survivors and survivor advocates was the predominant theme of increased accessibility. Accessibility included: allowing for online filing; allowing for virtual and phone court appearances; and being able to file for a protection order in the court that is closest to the petitioner.

In addition to continuing the practice of remote court appearances beyond the COVID-19 pandemic, stakeholders want to see increased coordination within the court system. For example, one recommendation was that if a protection order petition is filed in the wrong court, the court clerks could facilitate access by assuming responsibility for transferring the petition to the correct court, along with providing the petitioner with the appropriate court jurisdiction information before an appearance date, rather than adding the burden for refiling on the petitioner. This would reduce the likelihood the petitioner would travel to court only to have a judge or commissioner send them to a different court on a different date, prolonging the process.

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*“On occasion you will even see [the petitioner] got the wrong paperwork, which is really frustrating ... we're going to fill it out and [the court] is going to deny you when you go downstairs and you're going to have to do it all again.”*

*-DV Legal Advocate*

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Additionally, stakeholders expressed the need for printed, streamlined information in multiple languages for petitioners that advise them on how to successfully file for a protection order. Although the needs of each county differed based on distance to various courts, the feedback was clear that equitable accessibility was crucial.

Furthermore, self-identified survivors reported better outcomes in their cases when there was consistency in the judge or commissioner presiding over their case throughout the process. They expressed that the consistency is beneficial as it allows the judge or commissioner presiding over the case the ability to see and recognize a pattern of behavior over time. They further expressed the desire to have their domestic violence protection order cases heard in Family Court as they felt those judges were better educated on and more attune with domestic violence dynamics.

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*“I never had the same commissioner twice when I would go for a TRO or TO. I saw at least 3-4 different commissioners. I did not feel my final commissioner was well-versed in DV dynamics, especially abusive use of conflict, which resulted in both of us being hit with TROs which had a huge impact on my parenting plan going forward.”*

*-DV Survivor*

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Amidst the wide support from survivors and advocates for the ability to appear in court remotely, there are concerns that have arisen. One significant concern pertains to instances in which petitioners have been given wrong information about how to appear virtually or telephonically, resulting in a protection order being terminated or the petition dismissed due to failure to appear. Such errors result in further burdens on petitioners as they must start the process over and they face increased financial strain.

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*“We've also had some access issues with folks going for Protection Orders and then getting the wrong information about how to virtually or telephonically come into court for their date. Then their order is terminated and thrown out. They have to start all over again. Which is problematic for working class folks who have to take off the middle of their day or a full day of work to get access to court at all, even if they're coming in virtually. So that's peripheral, but also central for their experience.”*

*-DV Legal Advocate*

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Another concern cited regarding remote court appearances is the lag time between the protection order having been granted and when it is uploaded in the law enforcement system. One stakeholder cited cases in which abusers were able to continue to abuse and harass the survivor without repercussion because the petitioner did not yet have a copy of the issued order, and law enforcement was unable to verify the existence of the order in the system. Participants strongly recommended that orders be uploaded into the law enforcement system and emailed to the petitioner immediately at the conclusion of the hearing.

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*“The difficulty that we're having is that the abuser is allowed to continue to have access to the survivor in between time when the survivor doesn't have copies of [the] certified order. We've had instances where we called the police, but the police are saying well if I can't see it in my system, you don't have a hard copy, he hasn't been served, so therefore there's nothing we can do. So that's one significant difference of when you go to court, you walk out with it right away...”*

*- Family Law Attorney*

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### Priority 3: Best Practices for Minor Respondents and Petitioners

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*“There is often more concern about the abuser’s future, than the impact this has on this young [victim] who may be may have been experiencing dating violence, may have been experiencing stalking.”*

*-SA Stakeholder*

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*“If both the petitioner and respondent go to the same school, I print out a school map and then show them these are yours classes and you'll walk this way, and this person will walk this way. That's how to combat if they're both in the same school so to not have one of them have to leave. That's just what we do. I just come prepared with that information.”*

*-DV Legal Advocate*

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When asked about best practices for handling minor respondents and petitioners, participants described different responses depending on school district size. In the counties where the school district is sufficiently large enough to support multiple school options, courts generally will issue orders that provide that the respondent or petitioner move to another school within the district. However, many participants indicated that the school districts in their communities did not have that capacity. In those cases, the courts issue orders that require that the parties do their best to avoid each other while at the same school. Stakeholders expressed concern that schools play the role of enforcing protection orders on their own. The stakeholders that shared their opinions on this topic universally stated that schools tend to handle the violation of protection orders internally and do not formally involve law enforcement.

*“What happens is the school district ends up trying to police [protection orders] in some way, which in my opinion, is not a great idea. I think if there's a violation of an order they should be calling the Sheriff's Department and what we see is that is not happening. If the school has to be involved with trying to figure out how to enforce orders, they're, typically, going to internally try to figure it out rather than calling for a violation of the order.”*

*-DV Legal Advocate*

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Another topic frequently discussed by participants across the state related to who should be able to file the petition for a minor. Participants expressed the concern that many minor victims do not want or are uncomfortable involving their parents in petitioning, especially when sexual assault is involved.

In other cases, participants gave examples of parents who wanted to file against the wishes of the minor involved or refused to file when the minor wanted legal action.

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*“In our counties, in order for a minor to get a protection order, it has to be filed by their parent on their behalf. Sometimes I think that might be a barrier, because sometimes we've got parents who are really overprotective and the child who is 16 or 17 may not want this protection filed or maybe the child does want this protection order filed, but their parents don't think that it needs to be filed. So, those are things that I've seen to be hiccups in the way that things can happen.”*

*-DV Legal Advocate*

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Other participants identified privacy concerns as a reason that parents declined to file for a protection order. Even when the parents might support the need for a protection order they are often frightened that their home address would become public record and fear the negative repercussions that information could have on their family if shared.

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*“I did have a parent that declined to file one come in work with me recently – they chose not to file on the basis of needing their address to stay confidential. There was concern about the address not staying confidential and retaliation associated with that. Also, the school resource officer, the police officer stationed at that school, declined to provide a copy of the police report... We called together and he declined again. But on the basis of needing to share the address and not being able to get any evidence at all, the parent decided just not to file.”*

*-DV Legal Advocate*

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Though the experience of navigating protection orders with minor petitioners and respondents varied across the state, a common concern expressed by participants was that judges and commissioners seem to worry more about how the incident and subsequent protection order will negatively affect the future of the respondent with, seemingly, little regard for how the victim is negatively affected by the court's decision.

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*“Young girls of color are most impacted. I think our court systems are so concerned about the future of the youth that they are more likely to protect the abuser's future than they are on the young victim's future, because there's also just this inherent built-in idea that, well, that kind of trauma-- that's a woman's burden.”*

*-Attorney*

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## Conclusionary Thought from Survivors

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***“It feels as though the burden is on the Survivor to hold their abuser accountable.”***

*-Spoken by one DV Survivor & echoed by all in the Survivor Listening Session*

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It was widely expressed by self-identified survivors that they feel it is primarily incumbent on them to hold their abuser accountable, and that the legal system fails to act to keep them safe. Moreover, survivors relayed they felt further victimized while going through the legal system as their abuser continuously used, or is using, the court system to continue the abuse. Examples included abusers using such tactics such as litigation abuse and abusive use of manipulation and conflict, especially in the process of creating parenting plans. WSWC heard from several self-identified survivors who had been embroiled in fighting their abuser in the legal system for over a decade. These survivors reported being financially drained and emotionally harmed as a result.

*Prepared by: Grace Huang, WSWC Safety Committee Chair  
Regina Malveaux, WSWC Director  
Leah Acuff White, WSWC Legislative Fellow*

## Appendix E

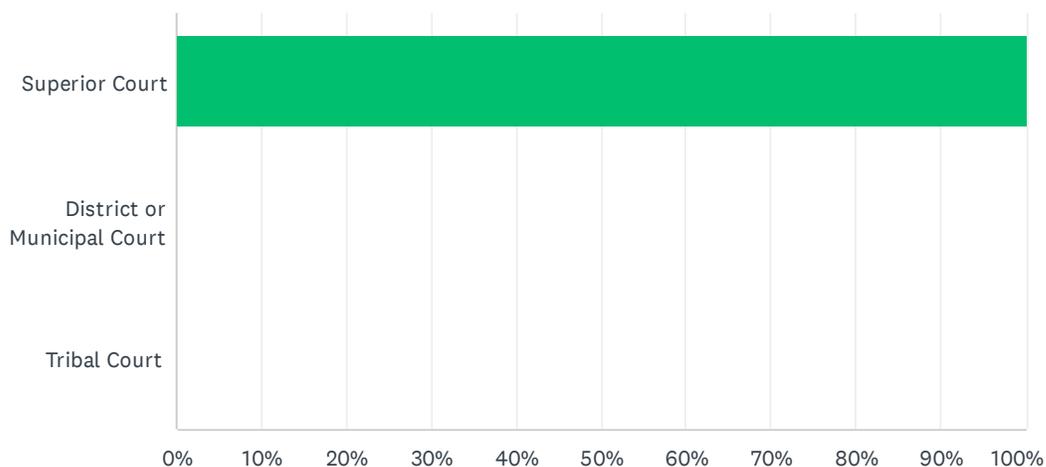
## Q1 What jurisdiction(s) do you work in?

Answered: 21 Skipped: 1

#	RESPONSES	DATE
1	Jefferson County	10/4/2021 1:13 PM
2	STEVENS COUNTY	10/2/2021 1:46 PM
3	Spokane	10/1/2021 4:15 PM
4	Franklin County Superior Court	9/30/2021 11:19 AM
5	Columbia County	9/27/2021 3:07 PM
6	Kittitas County	9/24/2021 5:13 PM
7	Yakima County	9/24/2021 8:17 AM
8	Pend Oreille	9/23/2021 3:55 PM
9	Superior Court Clerk's Office	9/23/2021 11:04 AM
10	Klickitat County	9/23/2021 9:42 AM
11	Ferry County	9/23/2021 9:07 AM
12	Skagit	9/22/2021 3:47 PM
13	Superior Court Clerk	9/22/2021 3:36 PM
14	San Juan County	9/22/2021 3:33 PM
15	Benton County	9/22/2021 2:51 PM
16	Jefferson County	9/22/2021 2:20 PM
17	Mason County	9/22/2021 1:54 PM
18	Skamania	9/22/2021 1:53 PM
19	Whitman County	9/22/2021 1:44 PM
20	Clallam County	9/22/2021 1:38 PM
21	Grays Harbor County	9/22/2021 1:32 PM

## Q2 What type of court do you work in?

Answered: 20 Skipped: 2



ANSWER CHOICES	RESPONSES
Superior Court	100.00% 20
District or Municipal Court	0.00% 0
Tribal Court	0.00% 0
Total Respondents: 20	

#	OTHER (PLEASE SPECIFY)	DATE
1	Clerk's Office	9/23/2021 11:04 AM
2	Superior Court Clerk	9/22/2021 2:51 PM

### Q3 What is your position?

Answered: 21 Skipped: 1

#	RESPONSES	DATE
1	County Clerk	10/4/2021 1:13 PM
2	COUNTY CLERK	10/2/2021 1:46 PM
3	County Clerk	10/1/2021 4:15 PM
4	County Clerk and Clerk of the Superior Court	9/30/2021 11:19 AM
5	Clerk and Ex-Officio Clerk of Superior Court	9/27/2021 3:07 PM
6	Clerk	9/24/2021 5:13 PM
7	County Clerk	9/24/2021 8:17 AM
8	County Clerk	9/23/2021 3:55 PM
9	Judicial Services Manager	9/23/2021 11:04 AM
10	Clerk	9/23/2021 9:42 AM
11	County Clerk	9/23/2021 9:07 AM
12	County Clerk	9/22/2021 3:47 PM
13	County Clerk	9/22/2021 3:36 PM
14	Clerk	9/22/2021 3:33 PM
15	County Clerk	9/22/2021 2:51 PM
16	County Clerk	9/22/2021 2:20 PM
17	County Clerk	9/22/2021 1:54 PM
18	County Clerk	9/22/2021 1:53 PM
19	Clerk	9/22/2021 1:44 PM
20	Clerk	9/22/2021 1:38 PM
21	County Clerk	9/22/2021 1:32 PM

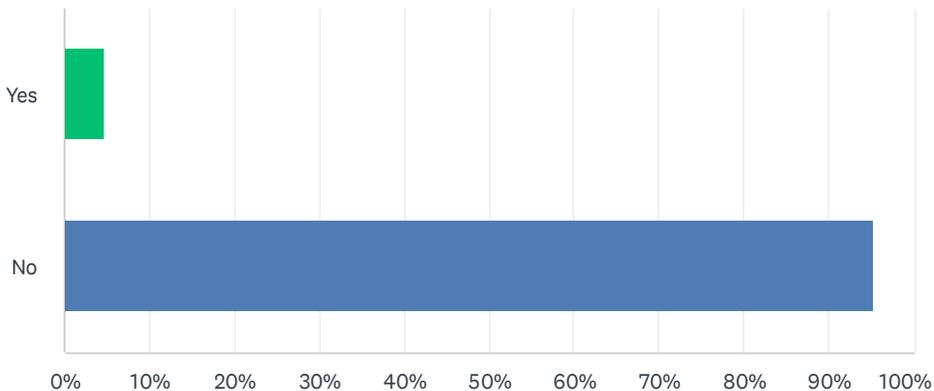
## Q18 As the normal course of business when reviewing protection orders, which databases are checked to assess relevant civil or criminal history of the parties?

Answered: 20 Skipped: 2

#	RESPONSES	DATE
1	i believe the court checks jabs. question for the court, really	10/6/2021 10:48 AM
2	I am a clerk so I have no idea.	10/4/2021 1:54 PM
3	JABS	10/2/2021 2:08 PM
4	JIS and JABS.	10/1/2021 4:53 PM
5	JABS	9/30/2021 11:28 AM
6	Does not apply to Clerks	9/24/2021 5:34 PM
7	Odyssey/JABS	9/24/2021 8:22 AM
8	JABS	9/23/2021 4:15 PM
9	JABS is accessed to check for active orders.	9/23/2021 11:40 AM
10	JABS	9/23/2021 11:15 AM
11	NA - not a Clerk responsibility	9/23/2021 9:54 AM
12	JABS	9/23/2021 9:20 AM
13	JIS/JABS	9/22/2021 4:17 PM
14	I believe they check JABS	9/22/2021 3:45 PM
15	This is a judicial officer responsibility, but I believe that JABS is utilized.	9/22/2021 3:00 PM
16	Jabs	9/22/2021 2:32 PM
17	The clerk plays no role in this. I do not know.	9/22/2021 2:30 PM
18	JIS/JABS	9/22/2021 2:23 PM
19	None.	9/22/2021 1:48 PM
20	Odyssey and JIS	9/22/2021 1:39 PM

### Q19 Does your court have National Crime Information Center (NCIC) or Washington Association of Sheriffs and Police Chiefs (WASPC) access?

Answered: 21 Skipped: 1



ANSWER CHOICES	RESPONSES	
Yes	4.76%	1
No	95.24%	20
<b>TOTAL</b>		<b>21</b>

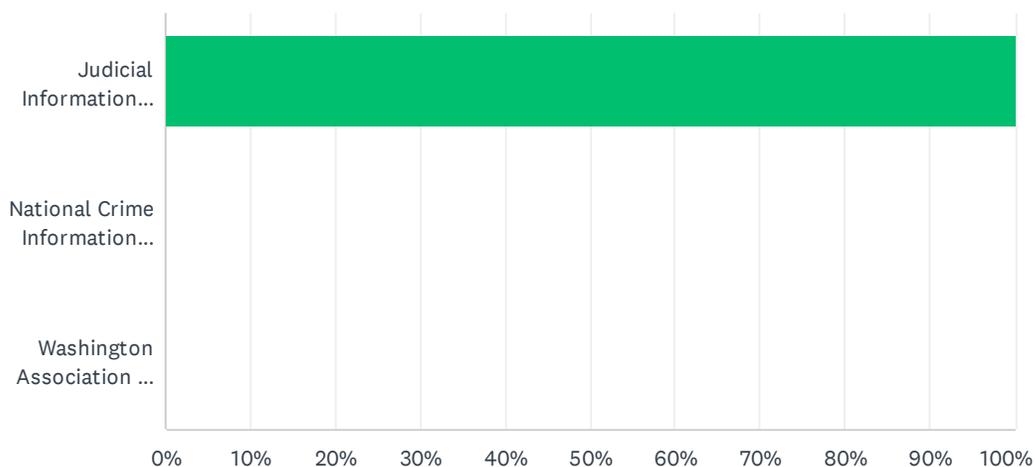
## Q20 If yes, which staff position(s) have log in credentials?

Answered: 14 Skipped: 8

#	RESPONSES	DATE
1	law enforcement does, right? one must be trained and certified for this kind of access. not for the clerk or court to do really	10/6/2021 10:48 AM
2	I doubt it but you should check with the Court Administrator as it would be her job or the judge's, if it is done.	10/4/2021 1:54 PM
3	N/A	10/2/2021 2:08 PM
4	Does not apply to Clerks	9/24/2021 5:34 PM
5	County Clerk staff do not. The court may. Two different branches of government and departments.	9/23/2021 11:40 AM
6	N/A	9/23/2021 11:15 AM
7	N/A	9/23/2021 9:20 AM
8	The clerks office does not. Court Adm may, but I am unaware if they do.	9/22/2021 4:17 PM
9	No, I don't think so.	9/22/2021 3:45 PM
10	n/a	9/22/2021 3:00 PM
11	n/a	9/22/2021 2:32 PM
12	I'm guessing - again, I have no idea.	9/22/2021 2:30 PM
13	N/A	9/22/2021 2:23 PM
14	I do not know if the court has access.	9/22/2021 1:48 PM

## Q21 What databases are checked for conflicting orders, if any?

Answered: 9 Skipped: 13



ANSWER CHOICES	RESPONSES
Judicial Information System (JIS)	100.00% 9
National Crime Information Center (NCIC)	0.00% 0
Washington Association of Sheriffs & Police Chiefs (WASPC)	0.00% 0
Total Respondents: 9	

#	OTHER (PLEASE SPECIFY)	DATE
1	jabs, right? assumedly judges are answering this question	10/6/2021 10:48 AM
2	Unknown. This is not a clerk duty.	10/4/2021 1:54 PM
3	JABS	10/2/2021 2:08 PM
4	JABS	10/1/2021 4:53 PM
5	JABS	9/30/2021 11:28 AM
6	Does not apply to Clerks	9/24/2021 5:34 PM
7	JABS	9/23/2021 11:40 AM
8	Not a Clerk function	9/23/2021 9:54 AM
9	JABS	9/23/2021 9:20 AM
10	JABS	9/22/2021 3:00 PM
11	JABS	9/22/2021 2:32 PM
12	unknown	9/22/2021 2:30 PM
13	JABS	9/22/2021 2:23 PM
14	I do not know if the court searches for conflicting orders.	9/22/2021 1:48 PM

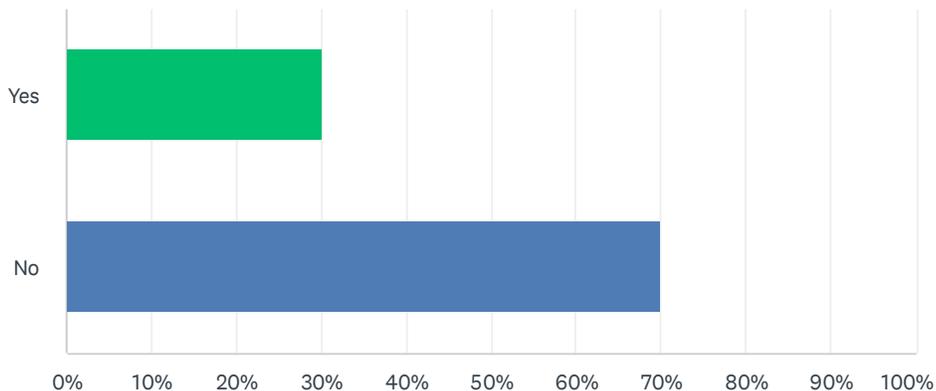
## Q22 Who in your court is responsible for checking for conflicting orders and party history?

Answered: 17 Skipped: 5

#	RESPONSES	DATE
1	judges and commissioners are supposed to review jabs. some do it on their own, most in this court have the clerk do that look up for them and print it out for their review.	10/6/2021 10:48 AM
2	I think the Court Administrator does this in preparation for the calendar.	10/4/2021 1:54 PM
3	COURT ADMINISTRATION	10/2/2021 2:08 PM
4	Court Commissioner presiding over the hearing.	10/1/2021 4:53 PM
5	Judicial officers, but the clerk looks up info in JABS for them.	9/30/2021 11:28 AM
6	Not the Clerk's role	9/24/2021 5:34 PM
7	We pull a JABS for the Judicial Officer looking at the Protection Order request.	9/23/2021 4:15 PM
8	Falls to the court but the clerk may from time to time.	9/23/2021 11:40 AM
9	Currently, the Clerk's Protection Order office does as a courtesy to the court. However, with upcoming changes and the amount of work that is potentially going to be added to already heavy workloads, this may need to be reconsidered as it is not the Clerk's responsibility to perform background checks/other court cases.	9/23/2021 11:15 AM
10	Clerk will access JABS & provide to Judge	9/23/2021 9:20 AM
11	The Clerk's office check JIS/JABS. I think this is probably more appropriate as a Court Adm, however it is the process we have used for a long time in our small county.	9/22/2021 4:17 PM
12	Judge	9/22/2021 3:45 PM
13	Judicial officers	9/22/2021 3:00 PM
14	I would assume Judicial assistant or Judge. Tribal orders can be registered with the Superior Court, this would add to JIS, and can be served and entered in local LEA systems. We have not received a tribal order.	9/22/2021 2:32 PM
15	the court	9/22/2021 2:30 PM
16	Superior Court Administration	9/22/2021 2:23 PM
17	We do not have a set process for searching prior to court.	9/22/2021 1:48 PM

**Q23 Would your court be interested in and capable of having NCIC access? Note: This requires a training and the ability to meet security requirements. User Accounts/Training and Cert Requirements (justice.gov)**

Answered: 20 Skipped: 2



ANSWER CHOICES	RESPONSES
Yes	30.00% 6
No	70.00% 14
TOTAL	20

## Q24 How, if at all, does your court work with neighboring tribes to identify preexisting or active orders entered in the Tribal courts?

Answered: 18 Skipped: 4

#	RESPONSES	DATE
1	good question for the court	10/6/2021 10:48 AM
2	In re: 23 I am totally guessing. Please ask the court what the court wants. The court does not tell the clerk these things. It has been a very many years since we had a tribal order here.	10/4/2021 1:54 PM
3	Question for the Court.	10/1/2021 4:53 PM
4	No neighboring tribes.	9/30/2021 11:28 AM
5	Your question asked about the Court - but this survey is for the Clerk's...very confusing. Those are different roles and the Clerk's are not, nor should be in that role.	9/24/2021 5:34 PM
6	In our county ALL protection orders entered from our tribe (Criminal No-Contact, Anti-Harassment, DV and Restraining Orders) is sent to us, by email (by special permission) we enter it into Odyssey as a Foreign Protection Order and send it on to Law Enforcement. That way when we search our system for protection orders we know if there is a conflict. We work very well with out local tribe.	9/23/2021 4:15 PM
7	Our local tribes will send their orders to us. We open a DV file and forward on any orders to LE.	9/23/2021 11:40 AM
8	Tribal courts used to send protection orders to our office to be entered as an FPO. However, Tulalip stopped doing that once they were able to enter orders directly into NCIC	9/23/2021 11:15 AM
9	Do not have a tribal court in our county.	9/23/2021 9:54 AM
10	Unknown	9/23/2021 9:20 AM
11	We have no nearby tribal court.	9/22/2021 4:17 PM
12	We don't	9/22/2021 3:45 PM
13	We have never had this come up in Benton County	9/22/2021 3:00 PM
14	We never see tribal orders.	9/22/2021 2:32 PM
15	I am totally guessing on No. 23. In regard to No. 24, I do not know what the court is doing in this regard.	9/22/2021 2:30 PM
16	Tribal courts in Mason County provide our office with their DV orders and we enter them into Odyssey.	9/22/2021 2:23 PM
17	We do not research conflicting orders.	9/22/2021 1:48 PM
18	phone	9/22/2021 1:39 PM

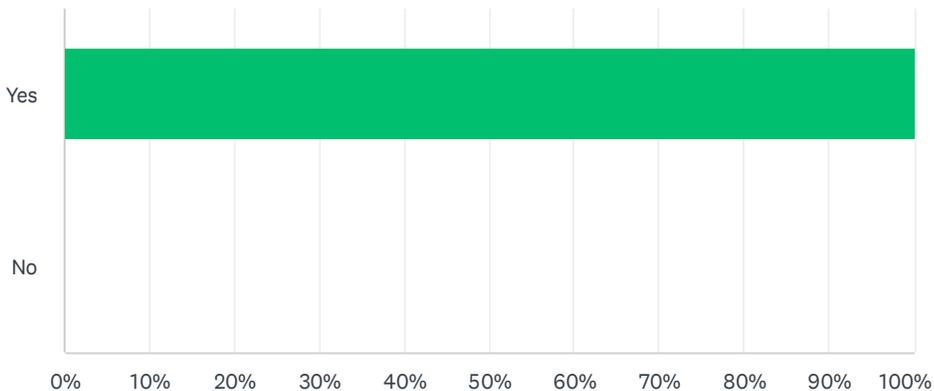
## Q25 What recommendations do you have to improve knowledge of tribal, military, or other state protection orders?

Answered: 13 Skipped: 9

#	RESPONSES	DATE
1	I think there should be joint data entry training done for both tribal and state clerks, preferably by region so we have a chance to meet each other. Our local tribe is on the west coast, so Clallam County is between them and us, so we never meet anyone from out there It's a three hour drive one way. They go to Gray's Harbor or Clallam instead. Alternately, I think AOC should provide data entry to all the tribal courts so everyone has one/two persons to interact with, and that person develops personal relationships with the tribal clerks because everything is about relationships. Good, mutually respectful, healthy teamwork. If AOC would take that on, AOC could assure every tribe is treated the same.	10/4/2021 1:54 PM
2	The Tribal State Court Consortium conference was extremely beneficial. Have attendance from Clerks and Court Administrators.	10/1/2021 4:53 PM
3	N/A	9/30/2021 11:28 AM
4	Refer this question to the Court, not the Clerks	9/24/2021 5:34 PM
5	I think every protection order they enter should be entered into our system by a County Clerk's Office.	9/23/2021 4:15 PM
6	N/A	9/23/2021 11:15 AM
7	None	9/23/2021 9:20 AM
8	None	9/22/2021 3:45 PM
9	I understand that in some counties, the tribal protection orders are "filed" with the County Clerk as a foreign protection order so they will appear in JABS.	9/22/2021 3:00 PM
10	I believe if an order of any kind is registered or filed with the court and ordered to be served and entered by law enforcement this would make it available to courts and sheriff's. possibly reduce conflicting orders.	9/22/2021 2:32 PM
11	If they used a LEIS on a regular basis that would sure be helpful.	9/22/2021 2:30 PM
12	Unknown	9/22/2021 2:23 PM
13	To start - meeting with stakeholders on the importance of searching for competing orders and going from there.	9/22/2021 1:48 PM

### Q26 Does your court use the Judicial Information System (JIS) or Judicial Access Browser (JABS) to locate court information about litigants?

Answered: 21 Skipped: 1



ANSWER CHOICES	RESPONSES	
Yes	100.00%	21
No	0.00%	0
TOTAL		21

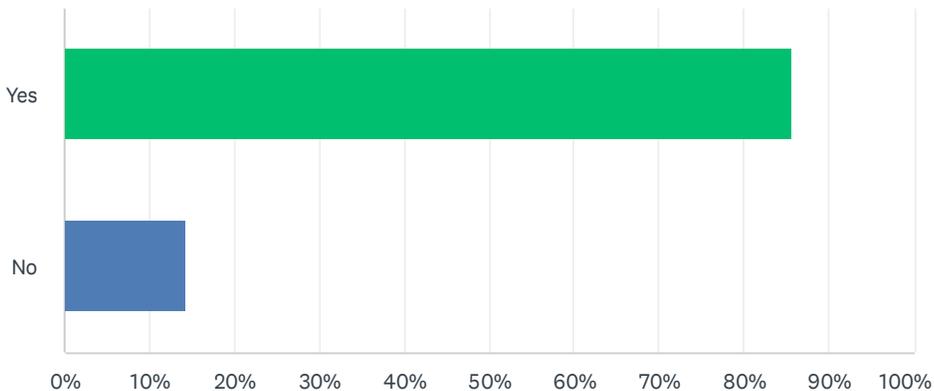
## Q27 If your court does not use JIS or JABS, what system does it use?

Answered: 13 Skipped: 9

#	RESPONSES	DATE
1	isn't this a repeat of earlier question? and isn't the court required to do this by law?	10/6/2021 10:48 AM
2	In re: #26 I am guessing it does. They are supposed to anyway. I suggest you also give a survey like this to the courts, as a majority of the questions in this survey are not about clerk functions.	10/4/2021 1:54 PM
3	N/A	10/2/2021 2:08 PM
4	BOTH	9/30/2021 11:28 AM
5	N/A	9/23/2021 11:15 AM
6	JABS	9/23/2021 9:54 AM
7	N/A	9/23/2021 9:20 AM
8	n/a	9/22/2021 3:45 PM
9	n/a	9/22/2021 3:00 PM
10	We use Jabs	9/22/2021 2:32 PM
11	I think they use both.	9/22/2021 2:30 PM
12	N/A	9/22/2021 2:23 PM
13	I assume the Court does but do not know their procedure.	9/22/2021 1:48 PM

### Q28 Does the system that your court uses interact with JIS or JABS in any way to access this data?

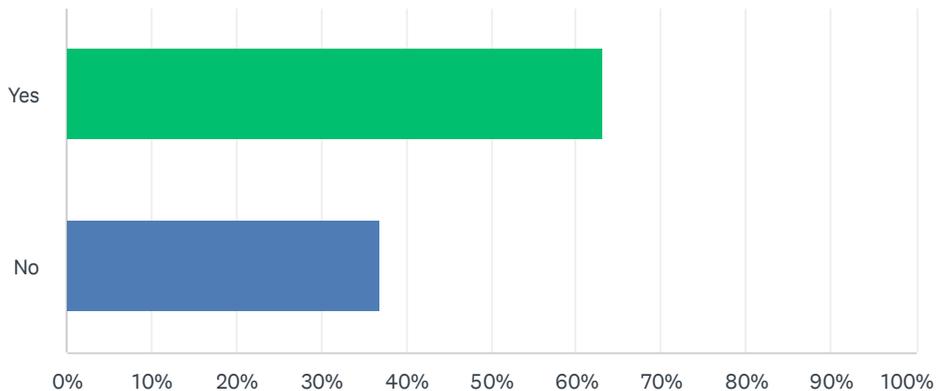
Answered: 14 Skipped: 8



ANSWER CHOICES	RESPONSES	
Yes	85.71%	12
No	14.29%	2
TOTAL		14

### Q29 Do you work in a jurisdiction that is on or near a Washington border or near a military base?

Answered: 19 Skipped: 3



ANSWER CHOICES	RESPONSES	
Yes	63.16%	12
No	36.84%	7
<b>TOTAL</b>		<b>19</b>

### Q30 If yes, what issues, if any, does your court have with getting or giving information to the neighboring state, country, or entity?

Answered: 12 Skipped: 10

#	RESPONSES	DATE
1	IN re: #28, the system we use is ODYSSEY and it by nature is linked with JIS and JABS somehow.	10/4/2021 1:54 PM
2	Have not heard of any.	10/1/2021 4:53 PM
3	We do get frequent requests from Idaho but we do not have any issues.	9/23/2021 4:15 PM
4	Insufficient information on order to provide to LE as directed.	9/23/2021 11:40 AM
5	Entry into JIS so that courts are able to see protection order information.	9/23/2021 11:15 AM
6	Oregon	9/23/2021 9:54 AM
7	Not known	9/23/2021 9:20 AM
8	We have had issues with service in canada.	9/22/2021 4:17 PM
9	We send by e-mail or Fax to out of State jurisdictions.	9/22/2021 3:45 PM
10	not sure.	9/22/2021 2:32 PM
11	We don't really, but I think not having working relationships and knowing who to call or how to look up who to call makes it take longer when it does come up. Really do not like working with Texas who charges for service of DVPO's.	9/22/2021 2:30 PM
12	No issues.	9/22/2021 1:48 PM

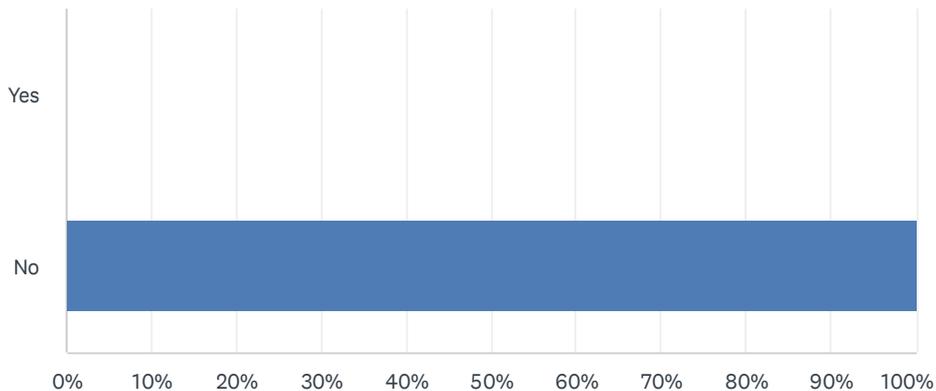
### Q31 What processes does your court have in place to check for possible protection orders in non-Washington jurisdictions, or to provide notice of your issued orders?

Answered: 12 Skipped: 10

#	RESPONSES	DATE
1	None of which I am aware. Again, please ask the court these questions.	10/4/2021 1:54 PM
2	No formal process that I know of. We do contact other agencies like LE when we have a protection order granted in our courts to be served in another state.	10/1/2021 4:53 PM
3	I don't believe they do.	9/30/2021 11:28 AM
4	None unless we have to have our respondent serviced in Idaho and then they serve for us. Other than that there is no communication in our Office. I believe the Prosecutor stays in closer touch.	9/23/2021 4:15 PM
5	None	9/23/2021 11:15 AM
6	none	9/23/2021 9:54 AM
7	None	9/23/2021 9:20 AM
8	We do not have a process. If the court orders us to provide to an outside jurisdiction, we then search the contact information and service requirements out at that time.	9/22/2021 4:17 PM
9	None	9/22/2021 3:45 PM
10	if the party resides out of county the petitioner may have to make arrangements to have the party served where they reside.	9/22/2021 2:32 PM
11	none that I am aware of.	9/22/2021 2:30 PM
12	We do not have a system.	9/22/2021 1:48 PM

### Q32 Do you have any connections with or work closely with military courts?

Answered: 19 Skipped: 3



ANSWER CHOICES	RESPONSES	
Yes	0.00%	0
No	100.00%	19
<b>TOTAL</b>		<b>19</b>

### Q35 Who in your court decides whether a petition for a protection order needs to be transferred to a different court?

Answered: 20 Skipped: 2

#	RESPONSES	DATE
1	I work in Superior Court so we don't transfer it to District Court. The District Court Judge decides in her court if it needs to be transferred.	10/6/2021 4:29 PM
2	assumedly transfers are mostly ordered in district courts by judges there.	10/6/2021 10:56 AM
3	the judge.	10/4/2021 2:00 PM
4	The Court Commissioner.	10/1/2021 5:02 PM
5	Judicial Officer	9/30/2021 11:32 AM
6	Judge or Court Commissioner	9/27/2021 3:16 PM
7	Judge or Commissioner	9/24/2021 5:36 PM
8	Judge	9/24/2021 8:24 AM
9	The court (judge).	9/23/2021 11:45 AM
10	Protection order office staff make that determination - if it is clear that it should go to District Court for an AH order	9/23/2021 11:20 AM
11	NA	9/23/2021 9:59 AM
12	The Judge	9/23/2021 9:25 AM
13	The clerks make an initial referral based on brief questioning at the counter. The court ultimately decides if the parties are in the right court. We also love the AOC Flowchart to assist people.	9/22/2021 4:31 PM
14	Judge	9/22/2021 3:47 PM
15	Judicial officers.	9/22/2021 3:04 PM
16	We direct people between District and Superior per local policy but our office will accept any petition from anyone and let the judge transfer if needed. We do not refuse to file any petition.	9/22/2021 2:44 PM
17	We first decide if there is property or children in common. If it is a neighbor dispute we refer to CLJ court. If there is DV we filed in our court.	9/22/2021 2:39 PM
18	Usually the judge. We do the best we can, but in the end, we don't refuse a petition, if District Court says it is ours, we present it to a Superior Court judge.	9/22/2021 2:29 PM
19	The Court decides.	9/22/2021 1:59 PM
20	Judge	9/22/2021 1:41 PM

## Q36 When a case is transferred to a different court, how does your clerk's office transfer the court file/pleadings?

Answered: 19 Skipped: 3

#	RESPONSES	DATE
1	District Court brings it to us.	10/6/2021 4:29 PM
2	transfers to our court from district court can be very messy. very challenging - many come in with problems: missing docs, hearings set for the wrong dates, didn't follow correct process, etc.	10/6/2021 10:56 AM
3	We take the documents across the hall to district court and talk about it. Very rarely does the paperwork leave us, it usually is brought to us.	10/4/2021 2:00 PM
4	At Superior Court we rarely transfer a case.	10/1/2021 5:02 PM
5	Depends on the receiving clerks office. The clerks association has a list of how offices would like to have files received. i.e: digital images, paper, CD etc.	9/30/2021 11:32 AM
6	Certified copy to different court	9/27/2021 3:16 PM
7	N/A - we only receive them; we don't transfer them out.	9/24/2021 5:36 PM
8	Prepare paper file, send USPS per order.	9/24/2021 8:24 AM
9	Workflow or fax	9/23/2021 11:45 AM
10	Via email if it is just the petition and an order hasn't been signed. If the petition has been entered into our case system, then an order transferring would be signed.	9/23/2021 11:20 AM
11	NA	9/23/2021 9:59 AM
12	Has not happened	9/23/2021 9:25 AM
13	We would get an order of transfer. This is not a common occurrence because of our screening process. I	9/22/2021 4:31 PM
14	Yes	9/22/2021 3:47 PM
15	This would be handled like any other case and would require a change of venue to transfer to another county.	9/22/2021 3:04 PM
16	Seriously, we just walk it across the hall and say, "Our judge transferred this to your court." This is not complex.	9/22/2021 2:44 PM
17	Usually, it is in the courts order and then we would transfer. We usually get the transfer from the CLJ court not usually the other way around. We would prepare and walk it over.	9/22/2021 2:39 PM
18	We walk the original documents to the District court clerk's office. We keep the original order of transfer and send a copy of that order with all other original pleadings to District court.	9/22/2021 2:29 PM
19	We provide the original record and keep the original order transferring - just like we would a change of venue.	9/22/2021 1:59 PM

## Q37 What does the transfer process entail, and how is it documented?

Answered: 15 Skipped: 7

#	RESPONSES	DATE
1	They close their case and we open a case.	10/6/2021 4:29 PM
2	it's communicated via email from the clerk's office with district court leaders in administration. things like "here are the calendar dates/times for DV calendars, here are the dates/times for AH and ERPO calendars, etc"	10/6/2021 10:56 AM
3	Hand-delivered. Documented in the CMS.	10/4/2021 2:00 PM
4	Again see above answer.	10/1/2021 5:02 PM
5	Cover letters are sent with a copy for the clerk to conform, once received by the sending clerk it is filed in the case.	9/30/2021 11:32 AM
6	Copy of letter placed in file.	9/24/2021 8:24 AM
7	Electronically transferred with court order.	9/23/2021 11:45 AM
8	We typically don't transfer to other courts. We receive transfers from District Court daily.	9/23/2021 11:20 AM
9	N/A	9/23/2021 9:25 AM
10	Usually with an Order and a Letter	9/22/2021 3:47 PM
11	We rarely, if ever, see this. It would be handled just like a change of venue and would require the same documentation and orders.	9/22/2021 3:04 PM
12	There is an order transferring in our case file, or in theirs. There is a new case filed in the receiving court. It contains copies of all the records from the sending court.	9/22/2021 2:44 PM
13	Again, we usually get the transfer.	9/22/2021 2:39 PM
14	See #36	9/22/2021 2:29 PM
15	I think this is answered above.	9/22/2021 1:59 PM

## Appendix F

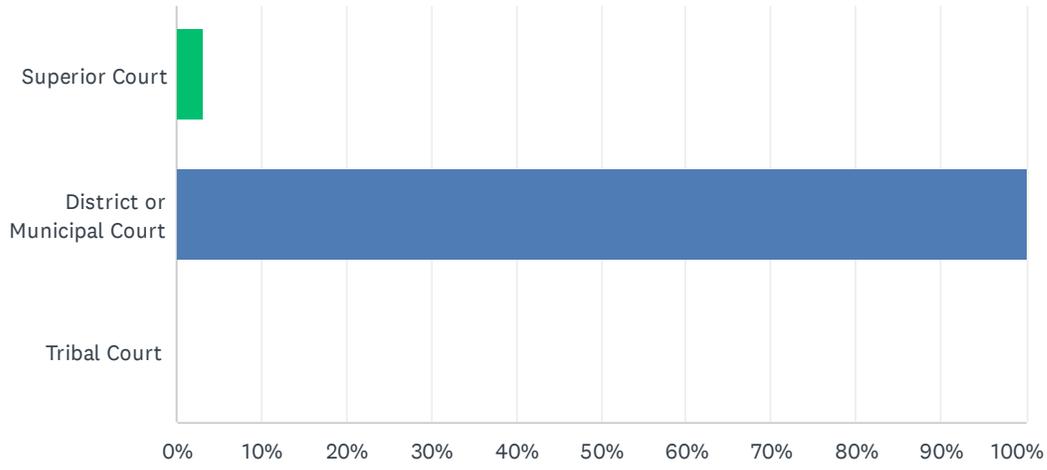
## Q1 What jurisdiction(s) do you preside/work in?

Answered: 31 Skipped: 0

#	RESPONSES	DATE
1	Kitsap County	10/6/2021 12:20 PM
2	Centralia Municipal Court	10/5/2021 4:14 PM
3	Yakima County	10/4/2021 8:47 AM
4	Whatcom County District Court	9/29/2021 2:07 PM
5	Wahkiakum & Pacific District & Superior Courts	9/27/2021 4:01 PM
6	Pend Oreille County District Court	9/27/2021 3:21 PM
7	Pacific County	9/27/2021 11:57 AM
8	Thurston County	9/27/2021 11:05 AM
9	Thurston County District Court	9/27/2021 8:47 AM
10	King County District Court	9/23/2021 10:29 AM
11	Courts of limited jurisdiction	9/23/2021 8:54 AM
12	City of Gig Harbor	9/22/2021 4:05 PM
13	Cheney Municipal	9/22/2021 3:23 PM
14	Jefferson County	9/22/2021 3:10 PM
15	Municipal Court	9/22/2021 2:59 PM
16	Municipal Court, City of Tukwila	9/22/2021 2:58 PM
17	Limited Jurisdiction	9/22/2021 2:52 PM
18	Walla Walla County, City of Walla Walla and City of College Place	9/22/2021 2:13 PM
19	Kittitas County	9/22/2021 2:05 PM
20	DOUGLAS COUNTY	9/22/2021 2:04 PM
21	King County	9/22/2021 2:01 PM
22	King County/Lake Forest Park Municipal Court	9/22/2021 1:53 PM
23	Fife	9/22/2021 1:51 PM
24	San Juan County	9/22/2021 1:46 PM
25	Chelan County	9/22/2021 1:40 PM
26	Benton County	9/22/2021 1:39 PM
27	Klickitat County	9/22/2021 1:36 PM
28	CITY OF PASCO	9/22/2021 1:36 PM
29	Lincoln County	9/22/2021 1:32 PM
30	Island County District, and Oak Harbor, Coupeville and Langlie Municipal Court	9/22/2021 1:27 PM
31	Marysville Municipal Court	9/22/2021 1:26 PM

## Q2 What type of court do you preside/work in?

Answered: 31 Skipped: 0



ANSWER CHOICES	RESPONSES	
Superior Court	3.23%	1
District or Municipal Court	100.00%	31
Tribal Court	0.00%	0
Total Respondents: 31		

## Q3 What is your position?

Answered: 31 Skipped: 0

#	RESPONSES	DATE
1	Presiding Judge	10/6/2021 12:20 PM
2	Court Administrator	10/5/2021 4:14 PM
3	Court Administrator	10/4/2021 8:47 AM
4	Administrator	9/29/2021 2:07 PM
5	District Court Judge / Superior Court Commissioner	9/27/2021 4:01 PM
6	Court Administrator	9/27/2021 3:21 PM
7	Court Administration	9/27/2021 11:57 AM
8	Civil Clerk	9/27/2021 11:05 AM
9	Civil Clerk	9/27/2021 8:47 AM
10	Court Director	9/23/2021 10:29 AM
11	Clerk	9/23/2021 8:54 AM
12	Court Administrator	9/22/2021 4:05 PM
13	Court Administrator	9/22/2021 3:23 PM
14	Court Admin	9/22/2021 3:10 PM
15	Administrator	9/22/2021 2:59 PM
16	Court Supervisor	9/22/2021 2:58 PM
17	Manager	9/22/2021 2:52 PM
18	Presiding Judge	9/22/2021 2:13 PM
19	Judge	9/22/2021 2:05 PM
20	COURT ADMIN	9/22/2021 2:04 PM
21	Training Coordinator	9/22/2021 2:01 PM
22	Court Administrator	9/22/2021 1:53 PM
23	Judge	9/22/2021 1:51 PM
24	Judge	9/22/2021 1:46 PM
25	Court Administrator	9/22/2021 1:40 PM
26	Court Administrator	9/22/2021 1:39 PM
27	Administrator	9/22/2021 1:36 PM
28	JUDGE	9/22/2021 1:36 PM
29	Judge	9/22/2021 1:32 PM
30	District (and Municipal) Court Judge	9/22/2021 1:27 PM
31	Court Administrator	9/22/2021 1:26 PM

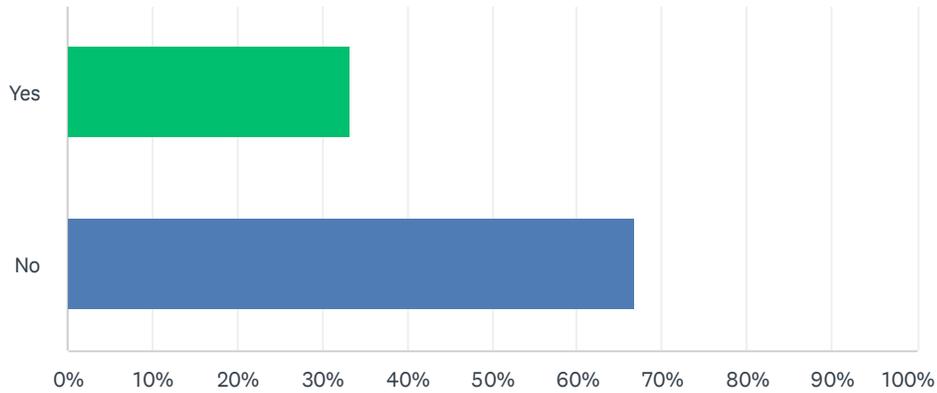
## Q25 As the normal course of business when reviewing protection orders, which databases are checked to assess relevant civil or criminal history of the parties?

Answered: 29 Skipped: 2

#	RESPONSES	DATE
1	AOC JABS/JIS; DISTRICT COURT SHAREPOINT	10/6/2021 12:30 PM
2	This court does not issue Civil Protection Orders.	10/5/2021 5:03 PM
3	None	10/4/2021 8:54 AM
4	JIS	9/29/2021 2:22 PM
5	JABS/JIS	9/27/2021 4:16 PM
6	Jabs	9/27/2021 3:27 PM
7	JIS	9/27/2021 12:42 PM
8	JIS	9/27/2021 11:18 AM
9	JIS	9/27/2021 9:11 AM
10	JABS	9/23/2021 10:42 AM
11	ICH in JABS	9/22/2021 4:31 PM
12	Prosecutor provides NCIC narrative, JIS and DOL records are checked by prosecutor. Judge has access to JIS and DOL records.	9/22/2021 3:36 PM
13	the Judge will review JABS on the bench - unless another party brings additional information, that is the only database our court can access	9/22/2021 3:31 PM
14	JIS, JABS, only NCIC on occasion by the prosecutor.	9/22/2021 3:20 PM
15	JABS	9/22/2021 3:10 PM
16	JABS	9/22/2021 3:07 PM
17	JABS, JIS, and possibly an NCIC depending on case type and if DV-related.	9/22/2021 2:24 PM
18	if we had any - Jabs	9/22/2021 2:23 PM
19	JABS and JIS	9/22/2021 2:21 PM
20	JIS / JABS for DVI and ICH	9/22/2021 2:21 PM
21	JABS/DCH	9/22/2021 2:10 PM
22	JIS/JABS	9/22/2021 2:10 PM
23	NA	9/22/2021 2:04 PM
24	JIS/JABS, DOL	9/22/2021 2:03 PM
25	JIS is checked.	9/22/2021 2:01 PM
26	JIS	9/22/2021 1:51 PM
27	JABS, JIS most regularly. Island County does not have an Indian reservation, so we encounter fewer tribal connections than most jurisdictions.	9/22/2021 1:43 PM
28	JIS	9/22/2021 1:42 PM
29	jabs	9/22/2021 1:38 PM

## Q26 Does your court have National Crime Information Center (NCIC) or Washington Association of Sheriffs and Police Chiefs (WASPC) access?

Answered: 30 Skipped: 1



ANSWER CHOICES	RESPONSES	
Yes	33.33%	10
No	66.67%	20
TOTAL		30

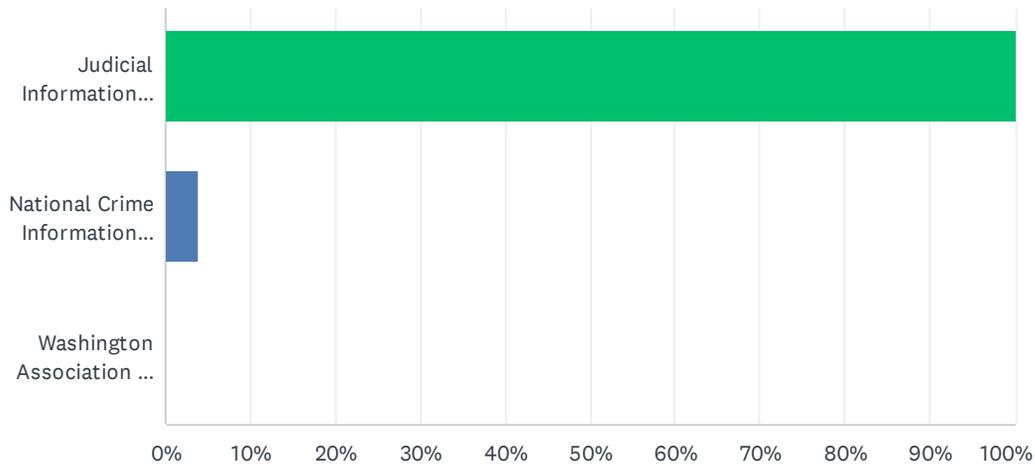
## Q27 If yes, which staff position(s) have log in credentials?

Answered: 16 Skipped: 15

#	RESPONSES	DATE
1	Prosecutors office only has access	10/6/2021 12:30 PM
2	Probation Services	10/4/2021 8:54 AM
3	NA	9/29/2021 2:22 PM
4	I am not sure since I work in the Civil Department and I assume they use that in the criminal department.	9/27/2021 9:11 AM
5	District Court Probation Department	9/23/2021 10:42 AM
6	Probation has log in credentials and codes for prosecutor use	9/22/2021 3:36 PM
7	no staff have access - we can only request from the Sheriff office	9/22/2021 3:31 PM
8	Only the probation officer and prosecutor does. Judge has asked them to look to see if there is history but it is not done for everyone.	9/22/2021 3:20 PM
9	N/A	9/22/2021 3:07 PM
10	Assistant Administrator (TAC) and Court Services Manager (Assistant TAC)	9/22/2021 2:24 PM
11	Judge and probation officers	9/22/2021 2:21 PM
12	Probation officers	9/22/2021 2:21 PM
13	NA	9/22/2021 2:04 PM
14	Only our probation officer have access to NCIC	9/22/2021 2:01 PM
15	PROBATION OFFICERS AND THE LEAD COURT CLERK	9/22/2021 1:42 PM
16	not known	9/22/2021 1:38 PM

## Q28 What databases are checked for conflicting orders, if any?

Answered: 26 Skipped: 5



ANSWER CHOICES	RESPONSES	
Judicial Information System (JIS)	100.00%	26
National Crime Information Center (NCIC)	3.85%	1
Washington Association of Sheriffs & Police Chiefs (WASPC)	0.00%	0
Total Respondents: 26		

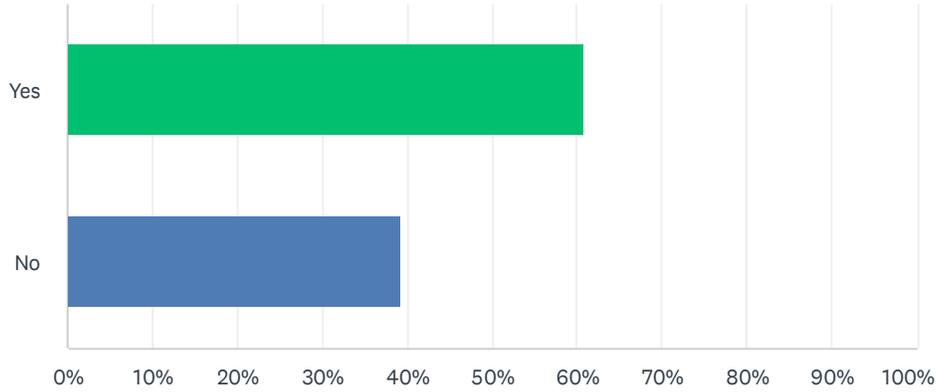
## Q29 Who in your court is responsible for checking for conflicting orders and party history?

Answered: 27 Skipped: 4

#	RESPONSES	DATE
1	the judge reviewing the petition; clerk identifies only related/prior cases.	10/6/2021 12:30 PM
2	No one, as this court does no issue Civil Protection Orders.	10/5/2021 5:03 PM
3	NA	10/4/2021 8:54 AM
4	We don't have one designated staff person.	9/29/2021 2:22 PM
5	Judge and/or clerk staff check if history is known, suspected, or referred to in pleadings. Otherwise, we may not check.	9/27/2021 4:16 PM
6	The Judge.	9/27/2021 3:27 PM
7	Clerks	9/27/2021 12:42 PM
8	The judges	9/27/2021 11:18 AM
9	Civil Clerks and Judges	9/27/2021 9:11 AM
10	The Judge/Clerk	9/23/2021 10:42 AM
11	Judge	9/22/2021 4:31 PM
12	Prosecutor with court staff assistance if needed	9/22/2021 3:36 PM
13	we do not unless the Judge reviews on the bench in JABS but we do not have access to what those orders say	9/22/2021 3:31 PM
14	Judge & prosecutor	9/22/2021 3:20 PM
15	The Judge	9/22/2021 3:10 PM
16	Customer Service Staff	9/22/2021 3:07 PM
17	Judge	9/22/2021 2:24 PM
18	Judge	9/22/2021 2:21 PM
19	Clerk prepping the calendar that day	9/22/2021 2:21 PM
20	NA	9/22/2021 2:10 PM
21	JUDGE	9/22/2021 2:10 PM
22	Prosecutor	9/22/2021 2:04 PM
23	The court clerk who prepares the file for the hearing prints off the party history from JIS.	9/22/2021 2:03 PM
24	Civil department staff.	9/22/2021 2:01 PM
25	Clerks, and the judicial officers usually do as well, as per statute.	9/22/2021 1:43 PM
26	The judge may ask about it during a hearing.	9/22/2021 1:42 PM
27	Judge	9/22/2021 1:38 PM

**Q30 Would your court be interested in and capable of having NCIC access? Note: This requires a training and the ability to meet security requirements. User Accounts/Training and Cert Requirements (justice.gov)**

Answered: 28 Skipped: 3



ANSWER CHOICES	RESPONSES	
Yes	60.71%	17
No	39.29%	11
TOTAL		28

## Q31 How, if at all, does your court work with neighboring tribes to identify preexisting or active orders entered in the Tribal courts?

Answered: 26 Skipped: 5

#	RESPONSES	DATE
1	We do not.	10/5/2021 5:03 PM
2	We don't.	10/4/2021 8:54 AM
3	NA. This is done by the Sheriff's Office.	9/29/2021 2:22 PM
4	We call, identify ourselves, and request records if we know there is a reason to look there.	9/27/2021 4:16 PM
5	no	9/27/2021 12:42 PM
6	In the Civil Department, we do not work with neighboring tribes or Tribal Courts	9/27/2021 9:11 AM
7	Unknown	9/23/2021 10:42 AM
8	None.	9/22/2021 4:31 PM
9	unsure.	9/22/2021 3:36 PM
10	we do not check	9/22/2021 3:31 PM
11	We don't, but would love to.	9/22/2021 3:20 PM
12	NA	9/22/2021 3:10 PM
13	We don't	9/22/2021 3:07 PM
14	N/A	9/22/2021 2:24 PM
15	N/A	9/22/2021 2:23 PM
16	I am unaware of any steps taken beyond checking JIS / JABS for that information	9/22/2021 2:21 PM
17	NA	9/22/2021 2:10 PM
18	NONE	9/22/2021 2:10 PM
19	NA	9/22/2021 2:04 PM
20	We do not	9/22/2021 2:03 PM
21	n/a	9/22/2021 2:01 PM
22	Not at all	9/22/2021 1:51 PM
23	Telephone contact as required.	9/22/2021 1:43 PM
24	N/A	9/22/2021 1:42 PM
25	We have not worked directly with the neighboring tribe on this issue.	9/22/2021 1:42 PM
26	no issues have come up that i am aware of	9/22/2021 1:38 PM

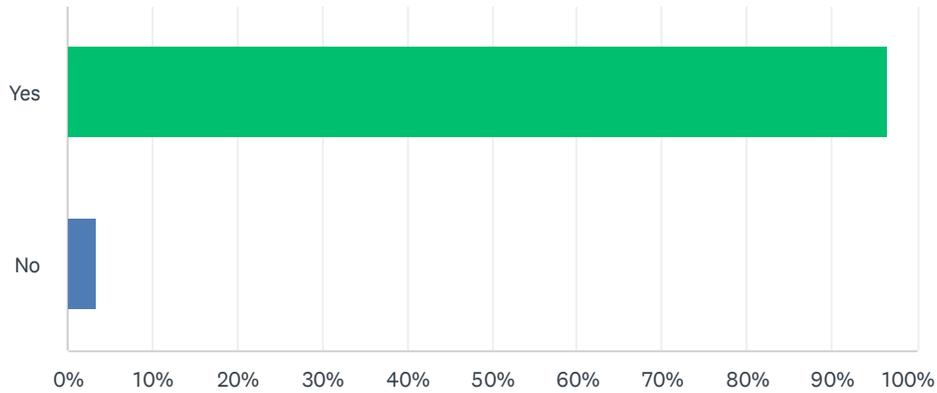
## Q32 What recommendations do you have to improve knowledge of tribal, military, or other state protection orders?

Answered: 18 Skipped: 13

#	RESPONSES	DATE
1	Knowledge of how to obtain tribal information.	10/5/2021 5:03 PM
2	Coordinated databases.	9/29/2021 2:22 PM
3	We need a centralized database that everyone uses and codes the same so we know if something is there, and if it is, what we are looking at so we can request more records if needed.	9/27/2021 4:16 PM
4	n/a	9/27/2021 12:42 PM
5	Unfortunately I don't have any recommendations.	9/27/2021 9:11 AM
6	Unknown	9/23/2021 10:42 AM
7	That other databases interface with Odyssey (or visa versa) through a data exchange process that would allow protection orders to be known across all courts.	9/22/2021 4:31 PM
8	Check with local LEA and find out how to access foreign protection orders for local needs.	9/22/2021 3:36 PM
9	we are very limited in being able to see other court orders as a district court. AOC should allow municipal and district court judges access to specific type of documents filed in the Odyssey system in order to facilitate this type of work. I do not know to start to address Tribal and Military orders - we are limited in our access to even superior let alone federal or tribal.	9/22/2021 3:31 PM
10	I would love for all staff to have access to NCIC, to be able to see other court orders.	9/22/2021 3:20 PM
11	It would be great if that information could be loaded into JABS so it would be easily accessible with other order information.	9/22/2021 3:10 PM
12	Unknown at this time	9/22/2021 3:07 PM
13	Need ability to see orders on statewide case history search.	9/22/2021 2:24 PM
14	One data repository that all protection orders MUST be filed to and MUST be reviewed prior to temporary and full order hearings.	9/22/2021 2:21 PM
15	As is often done in Superior Court, the tribal orders are sent to the clerk for entry into the state system. The same could be done for military orders.	9/22/2021 2:04 PM
16	It would be great if they appeared on JIS.	9/22/2021 2:03 PM
17	Training. Meetings with the neighboring tribes to develop a process.	9/22/2021 1:42 PM
18	If it could be part of the JIS it would help	9/22/2021 1:38 PM

### Q33 Does your court use the Judicial Information System (JIS) or Judicial Access Browser (JABS) to locate court information about litigants?

Answered: 30 Skipped: 1



ANSWER CHOICES	RESPONSES	
Yes	96.67%	29
No	3.33%	1
TOTAL		30

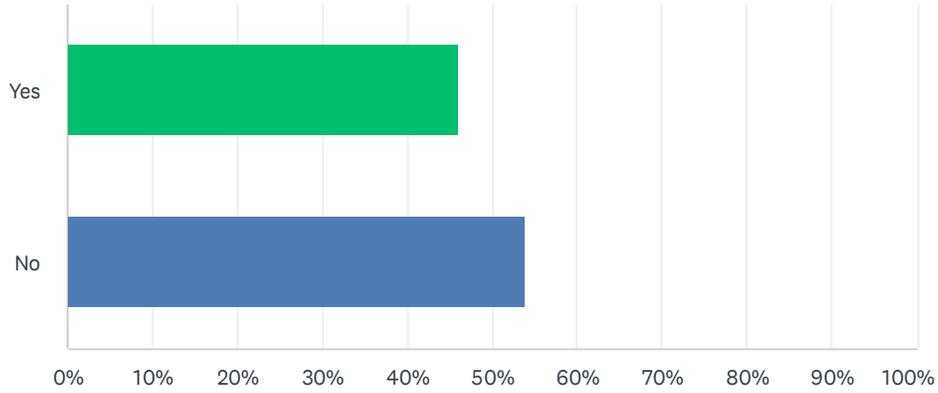
## Q34 If your court does not use JIS or JABS, what system does it use?

Answered: 8 Skipped: 23

#	RESPONSES	DATE
1	We use JIS and JABS.	9/29/2021 2:22 PM
2	n/a	9/22/2021 3:31 PM
3	N/A	9/22/2021 3:20 PM
4	N/A	9/22/2021 3:07 PM
5	N/A	9/22/2021 2:24 PM
6	In addition to JIS and JABS, we use eCourt.	9/22/2021 2:21 PM
7	NA	9/22/2021 2:04 PM
8	n/a	9/22/2021 1:42 PM

### Q35 Does the system that your court uses interact with JIS or JABS in any way to access this data?

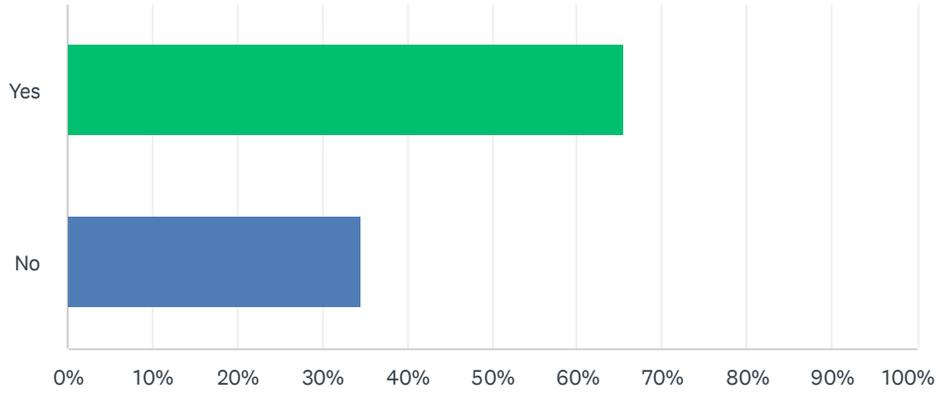
Answered: 13 Skipped: 18



ANSWER CHOICES	RESPONSES	
Yes	46.15%	6
No	53.85%	7
TOTAL		13

### Q36 Do you preside/work in a jurisdiction that is on or near a Washington border or near a military base?

Answered: 29 Skipped: 2



ANSWER CHOICES	RESPONSES	
Yes	65.52%	19
No	34.48%	10
TOTAL		29

## Q37 If yes, what issues, if any, does your court have with getting or giving information to the neighboring state, country, or entity?

Answered: 19 Skipped: 12

#	RESPONSES	DATE
1	n/a	10/6/2021 12:30 PM
2	Hasn't been a problem.	9/29/2021 2:22 PM
3	We frequently need to check with counties across the river in Oregon.	9/27/2021 4:16 PM
4	n/a	9/27/2021 12:42 PM
5	Unaware as this is not something we have done with the JBLM military base. We provide records and info to any military agents that accompany the defendant to a hearing if asked.	9/22/2021 4:31 PM
6	unsure	9/22/2021 3:36 PM
7	Lack of access unless we pick up the phone and call. We frequently have out of country citizens but again we do not have access to systems to check if we are asked.	9/22/2021 3:31 PM
8	N/A	9/22/2021 3:20 PM
9	We are right next to PSNS. I know they have had issues in the past when the Judge issues an order that they can't abide by due to work circumstances. If it's appropriate, the Judge might need to amend the order to lessen the restrictive distances. But they have never asked to completely rescind an order.	9/22/2021 3:10 PM
10	We are near a military base - we don't really interact with them	9/22/2021 3:07 PM
11	N/A	9/22/2021 2:24 PM
12	Difficult to get current information from Oregon courts	9/22/2021 2:21 PM
13	Unknown	9/22/2021 2:21 PM
14	Getting and/or giving information does not exist.	9/22/2021 2:04 PM
15	We are on the Canadian border geographically but the only access is by ferry. During the pandemic ferry service between Canada and us has been shut down. So, recently we have had almost no Canadian citizens in our court, and so I am not familiar with any issues during my term (I took office in 2019).	9/22/2021 2:03 PM
16	We have no information from the neighboring State.	9/22/2021 2:01 PM
17	WE have a Navy Base in Oak Harbor (NASWI). We have a close working relationship and have had regular, frequent contact with Base officials for as long as I have been here.	9/22/2021 1:43 PM
18	No issues	9/22/2021 1:42 PM
19	none	9/22/2021 1:38 PM

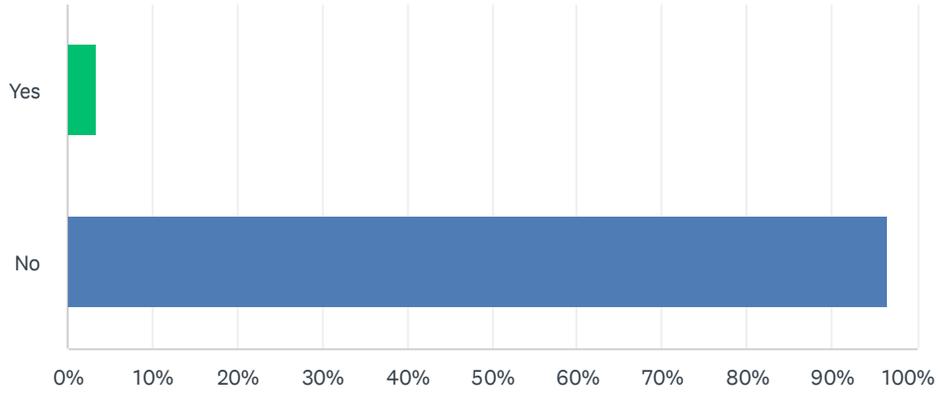
## Q38 What processes does your court have in place to check for possible protection orders in non-Washington jurisdictions, or to provide notice of your issued orders?

Answered: 24 Skipped: 7

#	RESPONSES	DATE
1	None	10/5/2021 5:03 PM
2	None.	10/4/2021 8:54 AM
3	We don't, but we think the prosecutor's office does.	9/29/2021 2:22 PM
4	Nothing formal. Would only check if we knew there was a specific reason to do so, and would provide notice of our issued orders only if there were a VERY good reason to do so. We would expect a party to make another court aware if they thought that were needed, unless there was a very dangerous and time sensitive situation.	9/27/2021 4:16 PM
5	n/a	9/27/2021 12:42 PM
6	None	9/27/2021 11:18 AM
7	We do not have access to a system in the Civil Department to see protection orders in a non-washington jurisdiction.	9/27/2021 9:11 AM
8	We rely on the city prosecutor to review the Triple I and our local law enforcement to enter protection orders into national database.	9/22/2021 4:31 PM
9	unsure	9/22/2021 3:36 PM
10	We do not have any access unless we have reason to try and search for those orders.	9/22/2021 3:31 PM
11	We only look in JIS, JABS. Sometimes the prosecutor looks in NCIC, but not often.	9/22/2021 3:20 PM
12	If the respondent lives out of state, we send it to the local law enforcement agency of where they reside.	9/22/2021 3:10 PM
13	We don't	9/22/2021 3:07 PM
14	None.	9/22/2021 2:24 PM
15	A judge may determine an out-of-state agency be responsible for service, at which point the clerk determines how to notify that LEA.	9/22/2021 2:21 PM
16	NA	9/22/2021 2:10 PM
17	NONE	9/22/2021 2:10 PM
18	It is up to the prosecutor.	9/22/2021 2:04 PM
19	We don't really have a process for that, except that we provide our orders to law enforcement to be entered into the database.	9/22/2021 2:03 PM
20	none	9/22/2021 2:01 PM
21	Notice is filed with the Sherriff's office	9/22/2021 1:51 PM
22	Other than checking with law enforcement, we don't. Which is one reason I would be most interested in having NCIC access.	9/22/2021 1:43 PM
23	No process in place	9/22/2021 1:42 PM
24	none	9/22/2021 1:38 PM

### Q39 Do you have any connections with or work closely with military courts?

Answered: 30 Skipped: 1



ANSWER CHOICES	RESPONSES	
Yes	3.33%	1
No	96.67%	29
TOTAL		30

## Q42 Who in your court decides whether a petition for a protection order needs to be transferred to a different court?

Answered: 28 Skipped: 3

#	RESPONSES	DATE
1	Judge	10/6/2021 12:33 PM
2	Protection Orders are filed directly at the County still, as our judge is very part time, and is not available for hearings on demand. Further, this court does not conduct civil hearings and has not received any training on how to file civil protection orders.	10/5/2021 5:10 PM
3	Judge	10/4/2021 9:01 AM
4	Judge or Commissioner	9/29/2021 2:25 PM
5	Clerk's staff if clear-cut; check with judge if grey area.	9/27/2021 4:24 PM
6	Judge, Court Administrator	9/27/2021 3:30 PM
7	Judge	9/27/2021 12:44 PM
8	The judges	9/27/2021 11:21 AM
9	The judge.	9/27/2021 9:19 AM
10	the Judges	9/23/2021 10:48 AM
11	judge	9/22/2021 3:40 PM
12	The Judge.	9/22/2021 3:35 PM
13	Court staff, victims advocate and Judge. Before we begin the process we make sure the petitioner lives in Tukwila if the petitioner lives outside of Tukwila we refer to the appropriate court. If there is children involved the next hearing will be set in superior court. Often the process starts in superior court if there is children involved.	9/22/2021 3:34 PM
14	A judge or pro-tem judge.	9/22/2021 3:33 PM
15	The clerks ask questions before they are filed to make sure they are in the correct court. The Judge sometimes issues a temp order and transfers it to Superior Court if appropriate.	9/22/2021 3:14 PM
16	Judge	9/22/2021 3:12 PM
17	NA	9/22/2021 3:11 PM
18	Judge	9/22/2021 2:36 PM
19	Judge	9/22/2021 2:25 PM
20	Judge	9/22/2021 2:23 PM
21	It is part of the initial screening done by staff.	9/22/2021 2:21 PM
22	The judge	9/22/2021 2:12 PM
23	WE TRANSFER TO SUPERIOR COURT IF A MINOR IS INVOLVED	9/22/2021 2:12 PM
24	Me (the judge)	9/22/2021 2:08 PM
25	The Judge	9/22/2021 1:55 PM
26	The judicial office, ultimately. Also, the front counter clerks know to advise petitioners in, say, vulnerable adult cases, they need to file in Superior Court.	9/22/2021 1:47 PM
27	The Judge	9/22/2021 1:45 PM



## Q43 When a case is transferred to a different court, how does your clerk's office transfer the court file/pleadings?

Answered: 28 Skipped: 3

#	RESPONSES	DATE
1	Direct contact, all pleadings and exhibits are directly transferred.	10/6/2021 12:33 PM
2	N/A	10/5/2021 5:10 PM
3	The Judge prepares an order and my staff send it to Superior Court.	10/4/2021 9:01 AM
4	The petitioner takes the info to the other court.	9/29/2021 2:25 PM
5	From one clerk's office to the other when the transfer order has been signed. For Wahkiakum County, District Court is just down the hall from Superior.	9/27/2021 4:24 PM
6	The documents are given to them.	9/27/2021 3:30 PM
7	interoffice mail	9/27/2021 12:44 PM
8	Via email	9/27/2021 11:21 AM
9	Yes	9/27/2021 9:19 AM
10	We have only transferred cases to superior court , these cases are transferred via Superior Courts efilng system	9/23/2021 10:48 AM
11	have never transferred to a different court. If a misdemeanor is refiled as a felony the protection order stays in place until the new charge is filed in Superior Court and New Order entered into NCIC before dismissing charge and recalling original order.	9/22/2021 3:40 PM
12	we walk the pleadings and the person filing to the superior court.	9/22/2021 3:35 PM
13	We have a very detailed process to send to superior court.	9/22/2021 3:34 PM
14	Electronic transfer (i.e. KC Superior Court). In other instances, we have contacted the other court telephonically and that court requested items be emailed to a particular address.	9/22/2021 3:33 PM
15	We email or mail the file.	9/22/2021 3:14 PM
16	Our Superior Court is in the same building as District Court. We tell the petitioner to go to Superior Court (Clerk's Office)	9/22/2021 3:12 PM
17	NA	9/22/2021 3:11 PM
18	Clerk transfers in JIS to close case, then provides all documents to the new court by either hand delivering them (transfer to Superior Court) or by contacting the other court to verify how they prefer to receive the case file.	9/22/2021 2:36 PM
19	Mail or email - depending on what is it that is public information and could be emailed	9/22/2021 2:25 PM
20	Physically or electronically transfers the file	9/22/2021 2:23 PM
21	If a case needs to be transferred, we make a certified copy of the entire file and send it to the jurisdiction.	9/22/2021 2:21 PM
22	Sending them the file	9/22/2021 2:12 PM
23	EMAIL	9/22/2021 2:12 PM
24	We have never had to transfer a case, to my knowledge.	9/22/2021 2:08 PM
25	Physically delivered to the court	9/22/2021 1:55 PM
26	IN written form, through the mail pouch system.	9/22/2021 1:47 PM

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27	Fax	9/22/2021 1:45 PM
28	Takes docs to the Superior Court, i think	9/22/2021 1:40 PM

## Q44 What does the transfer process entail, and how is it documented?

Answered: 27 Skipped: 4

#	RESPONSES	DATE
1	In person, docket entries made in our court file that it was transferred. For electronic transmission, email is retained.	10/6/2021 12:33 PM
2	N/A	10/5/2021 5:10 PM
3	Docket note entered, order sent to SC.	10/4/2021 9:01 AM
4	Filed in our court and taken to the other court. Docs filed in our court are retained.	9/29/2021 2:25 PM
5	Clerk's question. Judge cannot respond.	9/27/2021 4:24 PM
6	It's noted in JIS	9/27/2021 3:30 PM
7	na	9/27/2021 12:44 PM
8	Contacting the other court and it is docketed in JIS	9/27/2021 11:21 AM
9	We fill out a transfer order and we email it to Superior Court and we contact them for a hearing date and time. The orders are clear that it was transferred. We also keep our file as closed but transferred.	9/27/2021 9:19 AM
10	just a an entry in our system that the case has been transferred and the case number is included	9/23/2021 10:48 AM
11	see above	9/22/2021 3:40 PM
12	The Judge signs the order and then we either hand deliver the order or if it was to another county call and email to them.	9/22/2021 3:35 PM
13	After the ex parte hearing in the LJ court, the clerk in the limited jurisdiction court will have the Petition, Law Enforcement Information Sheet (LEIS), any signed Temporary Orders and the Transfer Order. The Transfer Order must include the date and location of the upcoming hearing in Superior Court and must be e-filed with the King County Superior Court Clerk's office the same day the order is signed.	9/22/2021 3:34 PM
14	Efiling with Superior Court, providing hearing information (if available) and service documents to the petitioner, faxing any appropriate orders to LEAs, and closing our case (or, in the case a temp has been issued, ensuring that the case closes at the expiration of the temp order).	9/22/2021 3:33 PM
15	We docket it, grant the order. Send it to Superior Court. We leave our file open so the order shows as active until the court date when we know Superior Court will either grant or deny the full order. We then close our case.	9/22/2021 3:14 PM
16	We docket that the petition was denied and include information that Superior Court is the proper venue.	9/22/2021 3:12 PM
17	NA	9/22/2021 3:11 PM
18	Judge reviews case and orders transfer; Clerk makes docket entry and completes transfer in JIS system; Clerk notifies filer that case has been transferred.	9/22/2021 2:36 PM
19	docket	9/22/2021 2:25 PM
20	See above	9/22/2021 2:23 PM
21	We mail the certified copy or email depending on the preference of the receiving jurisdiction.	9/22/2021 2:21 PM
22	entry in JIS and docket notes made	9/22/2021 2:12 PM
23	SHOWS TRANSFERRED IN JIS	9/22/2021 2:12 PM
24	Physically delivered	9/22/2021 1:55 PM

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25	The copies are taken to Superior the same day, with corresponding entries in JIS.	9/22/2021 1:47 PM
26	it is detailed in JIS and the paperwork is kept on our end until we know it has been accepted and filed in the transferring jurisdiction. Then the paperwork is put into the vault	9/22/2021 1:45 PM
27	done by paperwork process	9/22/2021 1:40 PM

## Q45 How does your court provide assistance to petitioners with their protection order paperwork in the courthouse?

Answered: 29 Skipped: 2

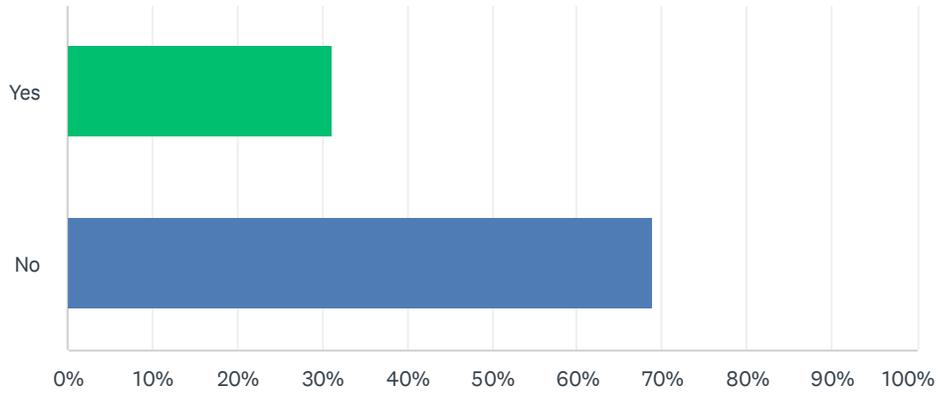
#	RESPONSES	DATE
1	We are not allowed to give legal advice, bet we do answer simple questions. We also have a brochure.	10/6/2021 12:33 PM
2	N/A	10/5/2021 5:10 PM
3	My staff will provide general information to the petitioner. They will explain the forms. They do not assist in completing the forms.	10/4/2021 9:01 AM
4	We refer them to resources.	9/29/2021 2:25 PM
5	Make all forms available, check for completeness, file, get contact info if there will be a wait for an emergency order decision, provide copies, explain how service will occur (or that they need to arrange for it for non-indigent AHOs).	9/27/2021 4:24 PM
6	We help them with the procedures.	9/27/2021 3:30 PM
7	Clerks assist if possible	9/27/2021 12:44 PM
8	We can't. We do review it to make sure it is all filled out. But if they need additional help, the can check with a victims advocate	9/27/2021 11:21 AM
9	We can only give them a form and tell them that they can go to a local resource agency for help to fill out the forms.	9/27/2021 9:19 AM
10	We do not have any assistance other than court staff	9/23/2021 10:48 AM
11	We sort and staple the multiple documents, explain next steps, how to serve the order, how to obtain resources and victim advocates, and explain future hearing dates.	9/22/2021 4:37 PM
12	the clerk is available to answer process questions and offer guidance.	9/22/2021 3:40 PM
13	Yes	9/22/2021 3:35 PM
14	When we were in person (we haven't had any since covid) we assist them along with the advocate through the whole process. Filing the paperwork, setting the hearing immediately and if it is granted, making photo copies for their person, work, school, etc.	9/22/2021 3:34 PM
15	Flowcharts and question sheets (to determine which type of order to file and if they are filing in the correct type of court), documents to complete (LEIS and petition), assistance with information about service options, and providing copies of documents.	9/22/2021 3:33 PM
16	We ask them questions and then give them the appropriate packet. Sometimes we have to explain what the form is asking for. We also review it and as them more questions if needed.	9/22/2021 3:14 PM
17	If they cannot fill out a petition online, we have a staff member that will assist the petitioner in filling out a paper copy of the petition.	9/22/2021 3:12 PM
18	NA	9/22/2021 3:11 PM
19	Instruction packet is provided with Petition, then advises of process when petition is filed, then provides copy of signed order to law enforcement for service unless court orders service to be completed by private party.	9/22/2021 2:36 PM
20	they would go through the DV Advocate	9/22/2021 2:25 PM
21	Clerks answer questions as needed	9/22/2021 2:23 PM
22	We explain how they complete the form and answer their questions.	9/22/2021 2:21 PM
23	NA	9/22/2021 2:12 PM

## HB 1320: District and Municipal Court Judges, Administrators & Clerks

24	WE DO NOT ASSIST WITH PAPERWORK, THEY ARE REFERRED TO SAGE, A DOMESTIC VIOLENCE HELP AGENCY	9/22/2021 2:12 PM
25	We provide them with all the documents to complete the petition and proposed order, and a "service packet" with all the documents they will need to serve the respondent.	9/22/2021 2:08 PM
26	Answer questions regarding how to fill out paperwork and refer them to Programs for Peaceful living	9/22/2021 1:55 PM
27	The clerks spend a fair amount of time assisting them through the process, which as you know can be quite emotional.	9/22/2021 1:47 PM
28	Staff will provide paperwork, explain the different types of orders and process the paperwork when completed.	9/22/2021 1:45 PM
29	Staff will aid in filling it out, but cannot advise	9/22/2021 1:40 PM

## Q46 Are victim advocacy services offered within your court?

Answered: 29 Skipped: 2



ANSWER CHOICES	RESPONSES	
Yes	31.03%	9
No	68.97%	20
TOTAL		29

## Appendix G

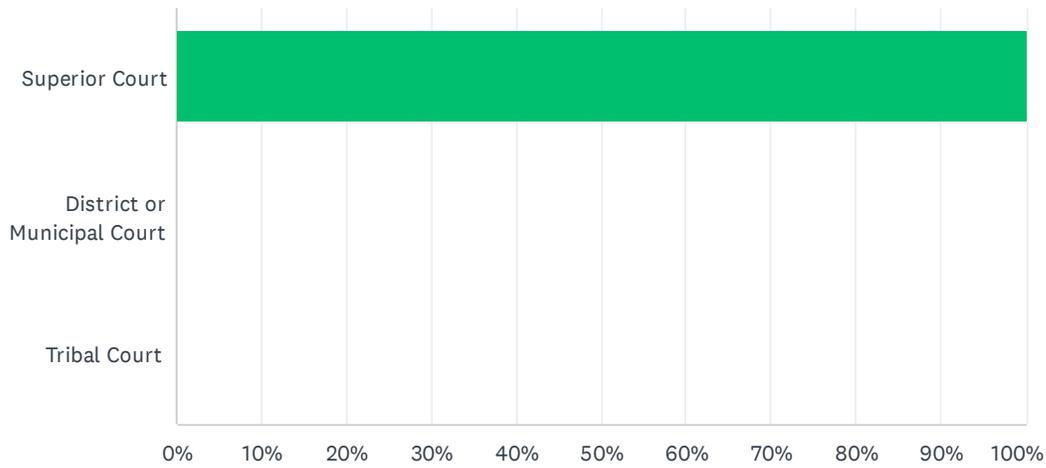
## Q1 What jurisdiction(s) do you preside/work in?

Answered: 14 Skipped: 0

#	RESPONSES	DATE
1	Pierce County (Superior Court)	10/13/2021 3:59 PM
2	Spokane County	10/6/2021 9:39 AM
3	Snohomish County	10/4/2021 12:57 PM
4	Jefferson County	9/27/2021 1:44 PM
5	Kitsap County	9/24/2021 11:58 AM
6	San Juan County	9/23/2021 11:07 AM
7	Thurston County	9/23/2021 8:01 AM
8	Walla Walla Superior Court	9/23/2021 7:50 AM
9	Clallam County	9/22/2021 3:10 PM
10	Chelan County	9/22/2021 2:30 PM
11	COWLITZ SUPERIOR	9/22/2021 2:27 PM
12	Grant County	9/22/2021 1:27 PM
13	Okanogan Superior Court	9/22/2021 1:27 PM
14	Kittitas County	9/22/2021 1:25 PM

## Q2 What type of court do you preside/work in?

Answered: 14 Skipped: 0



ANSWER CHOICES	RESPONSES
Superior Court	100.00% 14
District or Municipal Court	0.00% 0
Tribal Court	0.00% 0
Total Respondents: 14	

#	OTHER (PLEASE SPECIFY)	DATE
	There are no responses.	

## Q3 What is your position?

Answered: 14 Skipped: 0

#	RESPONSES	DATE
1	Court Commissioner	10/13/2021 3:59 PM
2	Court Administrator	10/6/2021 9:39 AM
3	Assistant Court Administrator	10/4/2021 12:57 PM
4	Court Administrator	9/27/2021 1:44 PM
5	Court Administrator	9/24/2021 11:58 AM
6	Judge	9/23/2021 11:07 AM
7	Judge	9/23/2021 8:01 AM
8	Superior Court Administrator/Judicial Assistant-Dept. 2	9/23/2021 7:50 AM
9	Superior Court Administrator	9/22/2021 3:10 PM
10	Court Administrator	9/22/2021 2:30 PM
11	PRESIDING JUDGE	9/22/2021 2:27 PM
12	Court Administrator	9/22/2021 1:27 PM
13	Judge	9/22/2021 1:27 PM
14	Court Administrator	9/22/2021 1:25 PM

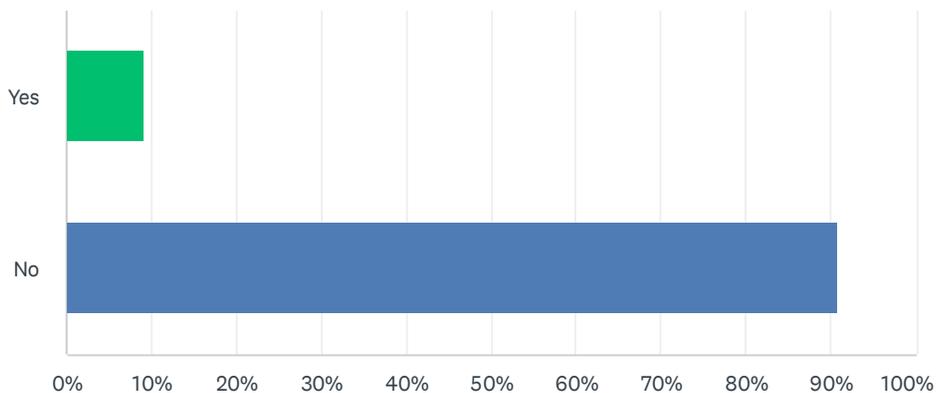
## Q16 As the normal course of business when reviewing protection orders, which databases are checked to assess relevant civil or criminal history of the parties?

Answered: 10 Skipped: 4

#	RESPONSES	DATE
1	JIS and JABS - we would love to have access to NCIC because of the large number of military personnel in our court.	10/13/2021 4:12 PM
2	JIS; JABS	10/6/2021 9:52 AM
3	Odyssey and sometimes JABS	10/4/2021 1:01 PM
4	SCOMIS, JABS( OCCASSIONALLY ODYESSY)	9/27/2021 2:01 PM
5	JIS & JABS	9/23/2021 8:10 AM
6	The Judges use their knowledge and do not use databases to make their decision	9/23/2021 8:00 AM
7	JABS routinely. Sometimes Odyssey.	9/22/2021 2:52 PM
8	JABS	9/22/2021 2:35 PM
9	JABS, Odyssey	9/22/2021 1:39 PM
10	Odyssey and JABS.	9/22/2021 1:34 PM

### Q17 Does your court have National Crime Information Center (NCIC) or Washington Association of Sheriffs and Police Chiefs (WASPC) access?

Answered: 11 Skipped: 3



ANSWER CHOICES	RESPONSES	
Yes	9.09%	1
No	90.91%	10
TOTAL		11

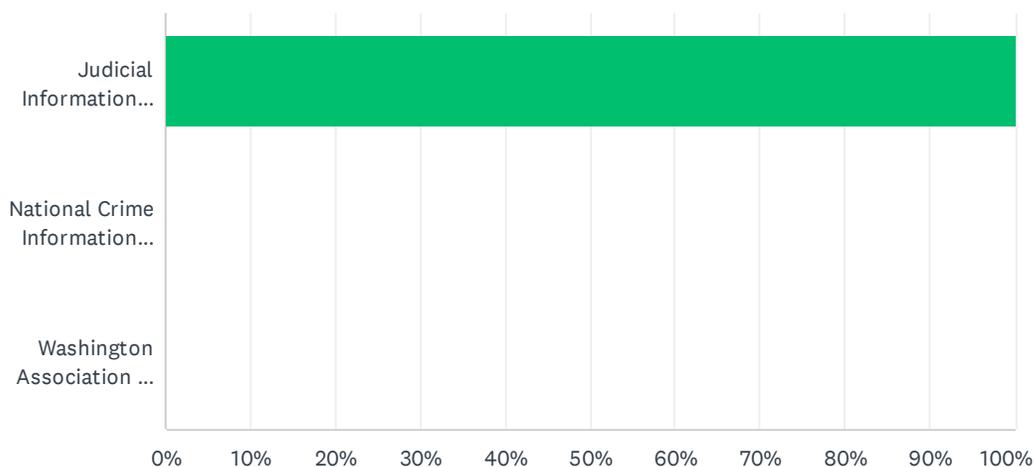
## Q18 If yes, which staff position(s) have log in credentials?

Answered: 6 Skipped: 8

#	RESPONSES	DATE
1	Only our prosecuting attorneys have access/credentials.	10/13/2021 4:12 PM
2	n/a	9/27/2021 2:01 PM
3	N/A	9/23/2021 8:10 AM
4	N/A	9/23/2021 8:00 AM
5	N/A	9/22/2021 1:39 PM
6	N/A	9/22/2021 1:34 PM

### Q19 What databases are checked for conflicting orders , if any?

Answered: 6 Skipped: 8



ANSWER CHOICES	RESPONSES
Judicial Information System (JIS)	100.00% 6
National Crime Information Center (NCIC)	0.00% 0
Washington Association of Sheriffs and Police Chiefs (WASPC)	0.00% 0
Total Respondents: 6	

#	OTHER (PLEASE SPECIFY)	DATE
1	JABS, SCOMIS	9/27/2021 2:01 PM
2	NONE	9/23/2021 8:00 AM
3	JABS	9/22/2021 2:35 PM

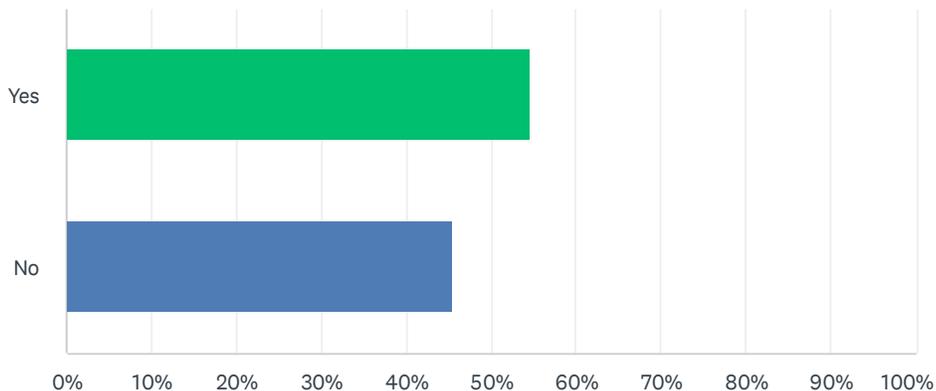
## Q20 Who in your court is responsible for checking for conflicting orders and party history?

Answered: 9 Skipped: 5

#	RESPONSES	DATE
1	The judicial officer presiding over the proceeding.	10/13/2021 4:12 PM
2	The clerk, judicial officer or court staff. It is a team effort.	10/6/2021 9:52 AM
3	If requested by Judge, Court Administrator checks for conflicting orders and party history	9/27/2021 2:01 PM
4	The judge reviews JIS/JABS before entering an order; discusses with parties; we have a Conflicting Orders process if a conflicting order is identified.	9/23/2021 8:10 AM
5	N/A	9/23/2021 8:00 AM
6	Court staff (judges chambers/court admin--not clerks) who accepts the papers at the door or takes them from the ex parte box.	9/22/2021 2:52 PM
7	THE JUDICIAL OFFICER PRESIDING OVER THE CASE	9/22/2021 2:35 PM
8	Judicial Assistants and Judges	9/22/2021 1:39 PM
9	Court Facilitator	9/22/2021 1:34 PM

**Q21 Would your court be interested in and capable of having NCIC access? Note: This requires a training and the ability to meet security requirements. User Accounts/Training and Cert Requirements (justice.gov)**

Answered: 11 Skipped: 3



ANSWER CHOICES	RESPONSES	
Yes	54.55%	6
No	45.45%	5
TOTAL		11

## Q22 How, if at all, does your court work with neighboring tribes to identify preexisting or active orders entered in the Tribal courts?

Answered: 10 Skipped: 4

#	RESPONSES	DATE
1	We have no protocol at this time.	10/13/2021 4:12 PM
2	We do not have a mechanism to collaborate with Tribal courts.	10/6/2021 9:52 AM
3	Not done currently.	10/4/2021 1:01 PM
4	n/a	9/27/2021 2:01 PM
5	We do not do this.	9/23/2021 8:10 AM
6	N/A	9/23/2021 8:00 AM
7	We do not generally. However, if we have reason to suspect or know there has been tribal involvement we will reach out to that tribe to see if there is any information that can be provided.	9/22/2021 2:52 PM
8	N/A	9/22/2021 2:35 PM
9	Not done at this time.	9/22/2021 1:39 PM
10	N/A	9/22/2021 1:34 PM

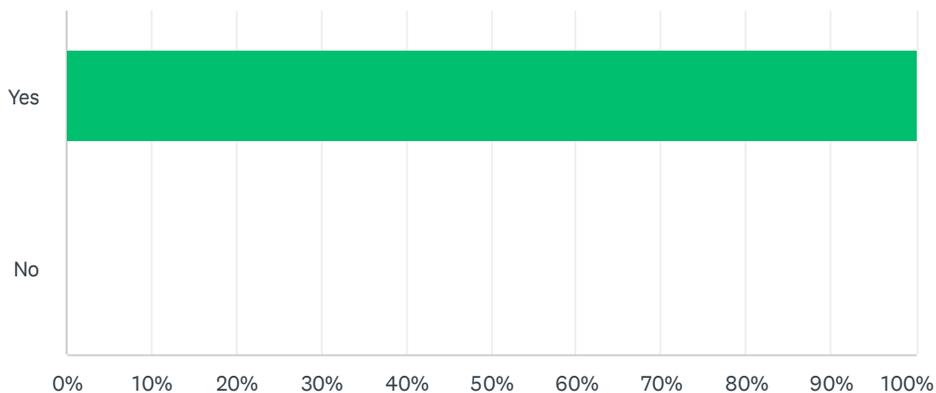
## Q23 What recommendations do you have to improve knowledge of tribal, military, or other state protection orders?

Answered: 8 Skipped: 6

#	RESPONSES	DATE
1	We need an identified group of liaisons or contacts among our tribes we can contact for such information.	10/13/2021 4:12 PM
2	Tribal courts should have access to enter information into JIS/JABS.	10/6/2021 9:52 AM
3	n/a	9/27/2021 2:01 PM
4	We need 1 place to look for this information. No court has resources to look at multiple places for this information.	9/23/2021 8:10 AM
5	N/A	9/23/2021 8:00 AM
6	HAVE THEM AVAILABLE ONLINE	9/22/2021 2:35 PM
7	Have a shared database so that all courts can see each other's orders.	9/22/2021 1:39 PM
8	N/A	9/22/2021 1:34 PM

### Q24 Does your court use the Judicial Information System (JIS) or Judicial Access Browser (JABS) to locate court information about litigants?

Answered: 11 Skipped: 3



ANSWER CHOICES	RESPONSES	
Yes	100.00%	11
No	0.00%	0
TOTAL		11

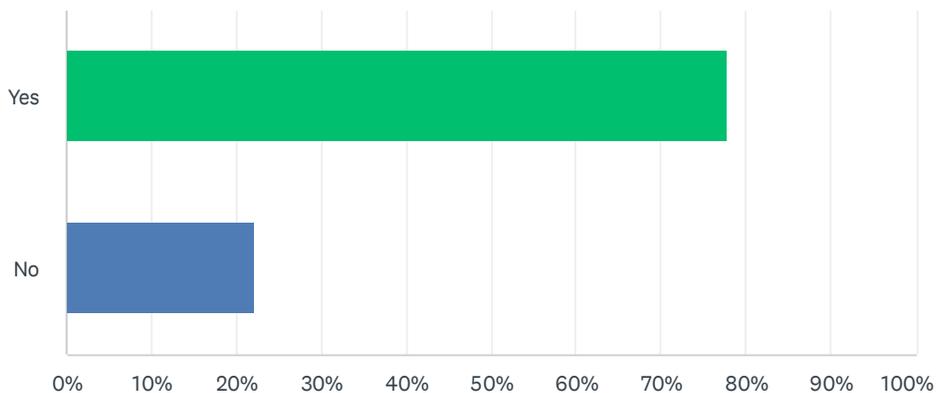
## Q25 If your court does not use JIS or JABS, what system does it use?

Answered: 6 Skipped: 8

#	RESPONSES	DATE
1	N/A	10/13/2021 4:12 PM
2	n/a	9/27/2021 2:01 PM
3	N/A	9/23/2021 8:10 AM
4	N/A	9/23/2021 8:00 AM
5	N/A	9/22/2021 1:39 PM
6	N/A	9/22/2021 1:34 PM

## Q26 Does the system that your court uses interact with JIS or JABS in any way to access this data?

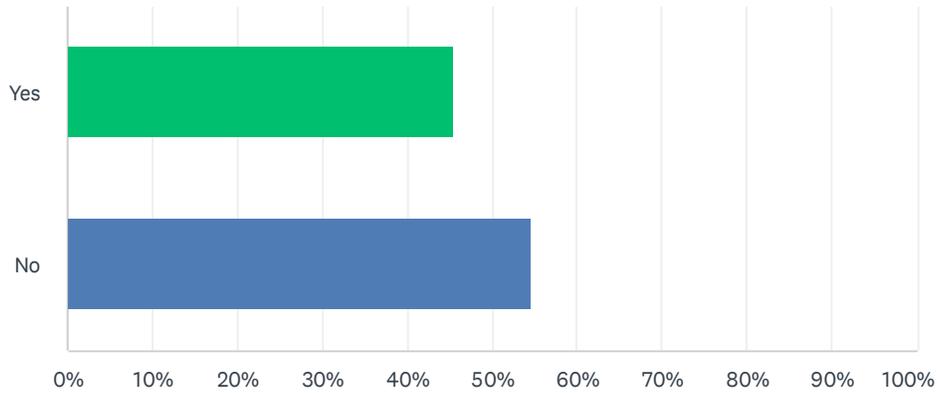
Answered: 9 Skipped: 5



ANSWER CHOICES	RESPONSES	
Yes	77.78%	7
No	22.22%	2
TOTAL		9

### Q27 Do you preside/work in a jurisdiction that is on or near a Washington border or near a military base?

Answered: 11 Skipped: 3



ANSWER CHOICES	RESPONSES	
Yes	45.45%	5
No	54.55%	6
TOTAL		11

## Q28 If yes, what issues, if any, does your court have with getting or giving information to the neighboring state, country, or entity?

Answered: 8 Skipped: 6

#	RESPONSES	DATE
1	We would prefer access to NCIC because so many servicemembers have lived in several different jurisdictions, and we have no other means to obtain any legal history from any jurisdiction other than Washington State.	10/13/2021 4:12 PM
2	We are not aware of information from neighboring state, county or entity unless disclosed by the parties.	10/6/2021 9:52 AM
3	n/a	9/27/2021 2:01 PM
4	We are near JBLM. We do not get requests for information. Perhaps the Clerk's Office does.	9/23/2021 8:10 AM
5	Our Court does not communicate with Oregon. This is left to the Prosecuting Attorney's Office and Law Enforcement	9/23/2021 8:00 AM
6	WE DON 'T HAVE an established process	9/22/2021 2:35 PM
7	N/A	9/22/2021 1:39 PM
8	N/A	9/22/2021 1:34 PM

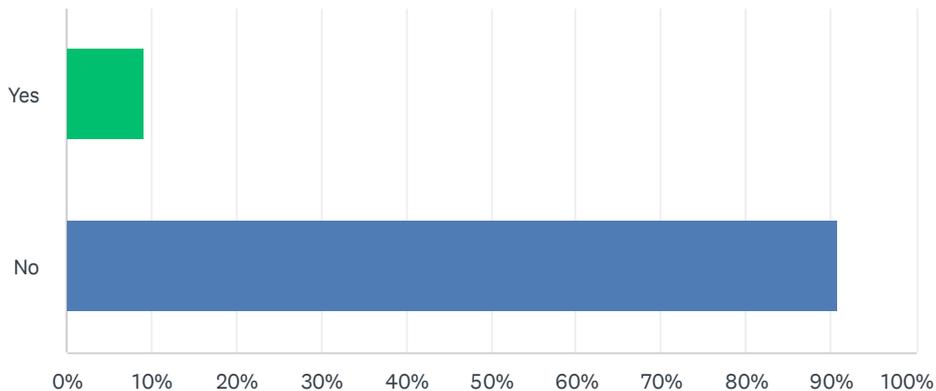
## Q29 What processes does your court have in place to check for possible protection orders in non-Washington jurisdictions, or to provide notice of your issued orders?

Answered: 10 Skipped: 4

#	RESPONSES	DATE
1	I have ordered parties who are alleged to have had such activity in foreign jurisdictions to obtain and provide the Court with a legal history from any such jurisdiction.	10/13/2021 4:12 PM
2	We are not aware of other protection orders from other jurisdictions unless disclosed by the parties.	10/6/2021 9:52 AM
3	No processes in place at this time.	10/4/2021 1:01 PM
4	n/a	9/27/2021 2:01 PM
5	None.	9/23/2021 8:10 AM
6	N/A	9/23/2021 8:00 AM
7	None except that if an order is entered against a respondent who resides in a non-Washington jurisdiction the order is sent to that jurisdiction for service (if it is an order that is to be served by law enforcement).	9/22/2021 2:52 PM
8	We file them in Odyssey. WE don't have access to a method to inquire for other states, tribes or federal.	9/22/2021 2:35 PM
9	N/A	9/22/2021 1:39 PM
10	N/A	9/22/2021 1:34 PM

### Q30 Do you have any connections with or work closely with military courts?

Answered: 11 Skipped: 3



ANSWER CHOICES	RESPONSES	
Yes	9.09%	1
No	90.91%	10
TOTAL		11

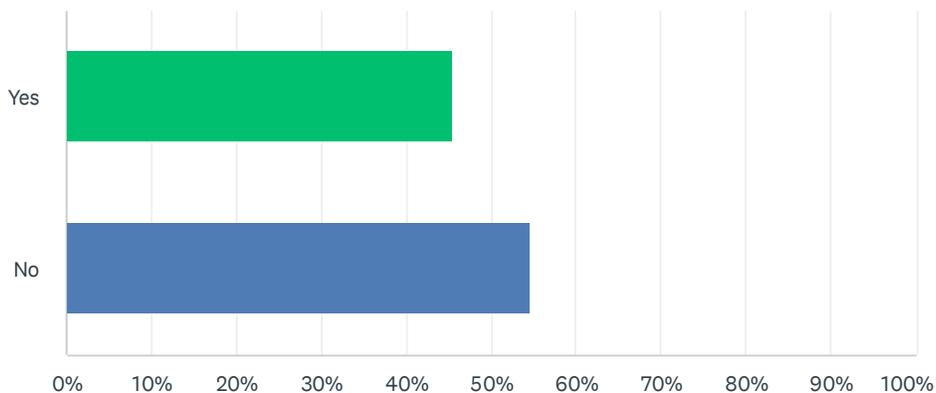
## Q33 How does your court provide assistance to petitioners with their protection order paperwork in the courthouse?

Answered: 11 Skipped: 3

#	RESPONSES	DATE
1	We have computer kiosks in our DV office. The petition is set up with specific prompts to guide petitioners through the petition itself. Our DV clerks also assist petitioners through the process.	10/13/2021 4:18 PM
2	Court staff can sometimes assist but normally it is the judicial officer or one of the local advocate groups that assist.	10/6/2021 9:54 AM
3	Facilitators for DV protection orders.	10/4/2021 1:02 PM
4	Clerks Office will answer procedural questions and offer DV resources	9/27/2021 2:07 PM
5	Clerk's office. Also victim advocates in the PA's office and a local non-profit that Clerk's suggest contacting.	9/23/2021 11:23 AM
6	The Clerk's Office has 2 full time DV liaisons who work with petitioners.	9/23/2021 8:12 AM
7	Explained in the previous box	9/23/2021 8:05 AM
8	we have a facilitator, but that has been very limited during covid. We have a couple of local agencies who assist.	9/22/2021 3:23 PM
9	When petitioners get to us they have already completed their paperwork. However, often it is still incomplete. We will go through the packet and point out sections that need to be completed before it is ready to be presented to a judge. We will also often read them the definition (of DV or harassment, etc.) if they have not provided enough information and give them an opportunity to add additional details/dates/etc. prior to taking the packet. We do not tell them what to write or make the add anything, but will will explain that a judge needs certain information (based on what type of petition they are presenting) to be able to consider their petition.	9/22/2021 3:21 PM
10	Provide brochures for local services available to assist--Women's Support Center, NWJ, CLEAR.	9/22/2021 1:45 PM
11	Through the Court Facilitator	9/22/2021 1:37 PM

### Q34 Are victim advocacy services offered within your court?

Answered: 11 Skipped: 3



ANSWER CHOICES	RESPONSES	
Yes	45.45%	5
No	54.55%	6
TOTAL		11

## Best Practices for Minor Litigants

Pursuant to E2SHB 1320 Sec. 36(1)(f), we are tasked with considering and making recommendations regarding “[d]eveloping best practices for minor respondents and petitioners in civil protection order proceedings, including what sanctions should be provided for in law ...”

### **Sections of HB 1320 that address minor petitioners and respondents:**

**Adolescent Dating Violence:** Legislative intent in Sec. 1(3)(a) of HB 1320 acknowledges that adolescent dating violence is occurring at increasingly high rates, and that preventing/confronting this violence is important to prevent future violence in adult relationships.

**Unlawful Harassment:** In the legislative intent of Sec. 1(3)(d) in HB 1320, “[t]he legislature finds that unlawful harassment directed at a child by a child is not acceptable can have serious consequences, but that some negative interactions between young people, especially in schools, do not rise to the level of unlawful harassment.”

**Definition of a Minor:** Pursuant to HB 1320, Sec. 2(23), a minor is a person under 18 years of age.

**Definition of an Intimate Partner:** Pursuant to HB 1320, Sec. 2(19)(d), includes “persons who have or have had a dating relationship where both persons are at least 13 years of age or older.”

### **Jurisdiction for Stalking Protection Orders, Antiharassment Orders, Extreme Risk Protection Orders:**

- **Stalking Protection Orders:** Pursuant to HB 1320, Sec. 5 (1)(a) and 5(2)(1), the district court shall transfer a stalking protection order case to superior court when the petitioner, victim, or respondent is under 18 years of age.
- **Antiharassment Orders:** Pursuant to HB 1320, Sec. 6(1)(a) and 6(2)(a), the court shall transfer an antiharassment case to superior court when the respondent is under 18 years of age.
- **Extreme Risk Protection Orders:** Pursuant to HB 1320, Sec. 8, the juvenile court may hear a proceeding if the respondent is under 18 years of age.

**Who Can File:** Pursuant to HB 1320, Sec. 13(1)-(3), a petitioner can be file a DV protection order on behalf of family or household members who are minors and can file a SAPO, Stalking or antiharassment petition on behalf of minors where the petitioner is the parent, legal guardian, or custodian. A person under 18 years of age who is 15 years of age or older may petition for any relief except VAPO, and “on behalf of a family or household member who is a minor if chosen by the minor and capable of pursuing the minor’s stated interest.” An authorized person must petition for a minor under age 15.

**Guardian Ad Litem:** Pursuant to HB 1320, Sec 14(11), if court deems necessary, court may appoint a guardian ad litem for a petitioner or respondent under age 18 who are not represented

by counsel. If a guardian ad litem is appointed, neither the petitioner nor the respondent shall be required by the court to pay any costs associated with the appointment. [Unfunded.]

**Initials/privacy:** Pursuant to HB 1320, Sec. 14(12), minor children must be referred to by their initials and date of birth in publicly available filed documents.

**Filing provisions:** Pursuant to HB 1320, Sec. 14 (12), “[m]inor children must only be referred to in the petition and in all other publicly available filed documents by their initials and date of birth. Any orders issued by the court for entry into a law enforcement database must show the minor's full name for purposes of identification, but be redacted to only display initials and date of birth for purposes of public access.”

**Indian Child Welfare Act (ICWA):** Pursuant to HB 1320, Sec. 15, the Indian Child Welfare Act applies to protection order proceedings.

**Methods of Service:** Pursuant to HB 1320, Sec. 18 (5)(a)-(c), when the respondent is a minor:

- Service of a petition for a protection order, modification, or renewal, shall be completed upon both the respondent and the respondent's parent or legal guardian.
- A copy of the protection order must be served on a parent, guardian, or conservator of the respondent at any address where the respondent resides, or the department of children, youth, and families in the case where the respondent is the subject of a dependency or court approved out-of-home placement. A minor respondent shall not be served at the minor respondent's school unless no other address for service is known.
- For extreme risk protection orders, the court shall also provide a parent, guardian, or conservator of the respondent with written notice of the legal obligation to safely secure any firearm on the premises and the potential for criminal prosecution if a prohibited person were to obtain access to any firearm. This notice may be provided at the time the parent, guardian, or conservator of the respondent appears in court or may be served along with a copy of the order, whichever occurs first.

**Granting or Denying an Order:** Pursuant to HB 1320, Sec. 29(2)(a), “[t]he court may not deny or dismiss a petition for a protection order on the grounds that the petitioner or the respondent is a minor, unless provisions in this chapter specifically limit relief or remedies based upon a party's age.”

**Appointment of Counsel:** Pursuant to HB 1320, Sec. 32, “[s]ubject to the availability of amounts appropriated for this specific purpose, or as provided through alternative sources .... the court may appoint counsel to petitioner if respondent has counsel. [Unfunded.]

**Training:** Pursuant to HB 1320, Sec. 35, judicial officers should receive training on, among other topics, juvenile sex offending and teen dating violence, before presiding over protection order hearings.

**Sealing of Records in Extreme Risk Protection Order Cases:** Pursuant to HB 1320, Sec. 16(1)(d) and Sec. 48 (1)&(2), “[a] respondent under the age of 18... may petition the court to have the court records sealed from public view at the time of the issuance of the full order, at any

time during the life of the order, or at any time after its expiration. The court shall seal the court records from public view if there are no other active protection orders against the restrained party, there are no pending violations of the order, and there is evidence of full compliance with the surrender of firearms as ordered by the extreme risk protection order.”

**Renewal of Protection Orders Other Than Extreme Risk Protection Orders:**

- Sec 54(6)(b) of HB 1320 prohibits denial of a renewal of a protection order based on the reasoning that the petitioner or the respondent is a minor
- Sec. 54(12) of HB 1320 mandates that the court consider “developmental factors, including the impact of time of a youth’s development, and any information the minor respondent presents about his or her personal progress or change in circumstances” when determining whether there has been a substantial change in circumstances or the duration of the order for respondents under age 18.

**School District Requirements:** Pursuant to HB 1320, Sec. 86(1)-(3):

- “If any student is subject to a civil protection order, the school district and school building staff will make adjustments to the student's schedule and other modifications to the student's school environment to support compliance with court orders and maintain the student's access to education.
- If a student is the subject of a civil protection order that prohibits regular attendance at the student's assigned school, the school district must provide the student comparable educational services in another setting. In such a case, the district shall not charge tuition and must provide transportation at no cost. The district shall put in place any needed supports to make the transition to a new school environment successful for the student.
- A school district must provide notification to the parent or legal guardian of a student who is subject to a civil protection order of the modifications, accommodations, supports, and services being created or provided for the student pursuant to this section.”

**Sections of HB 1320 that address sanctions for minor petitioners and respondents:**

**School Transfer:** Pursuant to HB 1320 Sec. 39(1)(h), “[i]n cases where the petitioner and the respondent are students who attend the same public or private elementary, middle, or high school, the court, when issuing a protection order and providing relief, shall consider, among the other facts of the case, the severity of the act, any continuing physical danger, emotional distress, or educational disruption to the petitioner, and the financial difficulty and educational disruption that would be caused by a transfer of the respondent to another school. The court may order that the respondent not attend the public or private elementary, middle, or high school attended by the petitioner. If a minor respondent is prohibited attendance at the minor's assigned public school, the school district must provide the student comparable educational services in another setting. In such a case, the district shall provide transportation at no cost to the respondent if the respondent's parent or legal guardian is unable to pay for transportation. The district shall put in place any needed supports to ensure successful transition to the new school environment. The

court shall send notice of the restriction on attending the same school as the petitioner to the public or private school the respondent will attend and to the school the petitioner attends.”

**Electronic Monitoring of Minors Not Permitted:** Pursuant to HB 1320 Sec. 39(1)(k), the court may not require electronic monitoring for respondents who are minors when issuing an ERPO.

**Enforcement & Penalties for Violating Protection Orders Other Than Antiharassment and ERPO:** Pursuant to HB 1320, Sec. 56, violation of an order that one knows about is a gross misdemeanor and also subjects the respondent to penalties for contempt of court. On conviction, electronic monitoring may be imposed and the court may impose the costs on respondent after considering ability to pay. Any assault that is a violation of a protection order (DV, SAPO, Stalking, VAPO) that does not amount to First and Second degree assault is a class C felony, as is any violation of such an order that is reckless and creates a substantial risk of death or serious physical injury, as is a violation of such an order with at least two previous convictions for violation of a PO..

**Enforcement & Penalties for Violating Antiharassment Order:** Pursuant to HB 1320 Sec. 57(4), “[a]ny respondent under the age of 18 years who willfully disobeys the terms of an antiharassment protection order issued under this chapter may, in the court's discretion, be found in contempt of court and subject to the sanction specified in RCW 7.21.030(4), provided that the sanction specified in RCW 7.21.030(4) may be imposed only for willful disobedience of the provisions listed in subsection (2) of this section.” *Note: For respondents over age 18, willful disobedience of an antiharassment order is a gross misdemeanor.*

*Note: RCW 7.21/030(4) reads: “If the court finds that a person under the age of eighteen years has willfully disobeyed the terms of an order issued under \*chapter [10.14](#) RCW, the court may find the person in contempt of court and may, as a sole sanction for such contempt, commit the person to juvenile detention for a period of time not to exceed seven days.”*

**Enforcement & Penalties for Violating ERPO:** Pursuant to HB 1320, Sec. 58, possession of a firearm in violation of an ERPO is a gross misdemeanor and further results in prohibition of firearm for five years from the date the existing order expires. Class C felony if two or more previous convictions for violating an order under this chapter.

# Appendix I

## **DISCLAIMER**

The Administrative Office of the Courts, the Washington Courts, and the Washington State County Clerks:

- 1) Do not warrant that the data or information is accurate or complete;
- 2) Make no representations regarding the identity of any persons whose names appear in data or information; and
- 3) Do not assume any liability whatsoever resulting from the release or use of the data or information.

The user should verify the information by personally consulting the "official" record reposing at the court of record.

## Number of Cases with a PET < 18

### Report 1: Petitioner <18

Case File Dat	Cause	CaseCnt
2016	DOMESTIC VIOLENCE PETITION	190
	HARASSMENT	453
	SEXUAL ASSAULT PROTECTION	130
	STALKING PROTECTION	25
<b>2016</b>	<b>Sum:</b>	<b>798</b>

Case File Dat	Cause	CaseCnt
2017	DOMESTIC VIOLENCE PETITION	194
	HARASSMENT	489
	SEXUAL ASSAULT PROTECTION	118
	STALKING PROTECTION	42
<b>2017</b>	<b>Sum:</b>	<b>843</b>

Case File Dat	Cause	CaseCnt
2018	DOMESTIC VIOLENCE PETITION	192
	HARASSMENT	431
	SEXUAL ASSAULT PROTECTION	137
	STALKING PROTECTION	44
<b>2018</b>	<b>Sum:</b>	<b>804</b>

Case File Dat	Cause	CaseCnt
2019	DOMESTIC VIOLENCE PETITION	133
	HARASSMENT	354
	SEXUAL ASSAULT PROTECTION	135
	STALKING PROTECTION	47
<b>2019</b>	<b>Sum:</b>	<b>669</b>

Case File Dat	Cause	CaseCnt
2020	DOMESTIC VIOLENCE PETITION	107
	HARASSMENT	338
	SEXUAL ASSAULT PROTECTION	86
	STALKING PROTECTION	19

2020	Sum:	550
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	Sum:	3664
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## Number of Cases with a PET < 18, where an Order is Granted.

### Report 2: Petitioner <18 Granted

Decision: Protects or Restrains Petitioner

Case File Dat	Cause	CaseCnt
2016	DOMESTIC VIOLENCE PETITION	173
	HARASSMENT	285
	SEXUAL ASSAULT PROTECTION	120
	STALKING PROTECTION	22
<b>2016</b>	<b>Sum:</b>	<b>600</b>

Case File Dat	Cause	CaseCnt
2017	DOMESTIC VIOLENCE PETITION	174
	HARASSMENT	335
	SEXUAL ASSAULT PROTECTION	112
	STALKING PROTECTION	39
<b>2017</b>	<b>Sum:</b>	<b>660</b>

Case File Dat	Cause	CaseCnt
2018	DOMESTIC VIOLENCE PETITION	161
	HARASSMENT	290
	SEXUAL ASSAULT PROTECTION	128
	STALKING PROTECTION	43
<b>2018</b>	<b>Sum:</b>	<b>622</b>

Case File Dat	Cause	CaseCnt
2019	DOMESTIC VIOLENCE PETITION	120
	HARASSMENT	247
	SEXUAL ASSAULT PROTECTION	130
	STALKING PROTECTION	46
<b>2019</b>	<b>Sum:</b>	<b>543</b>

Case File Dat	Cause	CaseCnt
2020	DOMESTIC VIOLENCE PETITION	79
	HARASSMENT	176
	SEXUAL ASSAULT PROTECTION	83

	STALKING PROTECTION	14
<b>2020</b>	<b>Sum:</b>	<b>352</b>
	<b>Sum:</b>	<b>2777</b>

## Number of Cases with a RSP < 18

### Report 3: Respondent <18

Case File Dat	Cause	CaseCnt
2016	DOMESTIC VIOLENCE PETITION	119
	HARASSMENT	193
	SEXUAL ASSAULT PROTECTION	62
	STALKING PROTECTION	26
<b>2016</b>	<b>Sum:</b>	<b>400</b>

Case File Dat	Cause	CaseCnt
2017	DOMESTIC VIOLENCE PETITION	108
	HARASSMENT	225
	SEXUAL ASSAULT PROTECTION	60
	STALKING PROTECTION	28
<b>2017</b>	<b>Sum:</b>	<b>421</b>

Case File Dat	Cause	CaseCnt
2018	DOMESTIC VIOLENCE PETITION	87
	HARASSMENT	242
	SEXUAL ASSAULT PROTECTION	59
	STALKING PROTECTION	39
<b>2018</b>	<b>Sum:</b>	<b>427</b>

Case File Dat	Cause	CaseCnt
2019	DOMESTIC VIOLENCE PETITION	88
	HARASSMENT	209
	SEXUAL ASSAULT PROTECTION	68
	STALKING PROTECTION	40
<b>2019</b>	<b>Sum:</b>	<b>405</b>

Case File Dat	Cause	CaseCnt
2020	DOMESTIC VIOLENCE PETITION	63
	HARASSMENT	108
	SEXUAL ASSAULT PROTECTION	48

	STALKING PROTECTION	15
<b>2020</b>	<b>Sum:</b>	<b>234</b>
	<b>Sum:</b>	<b>1887</b>

## Number of Cases with a RSP < 18, where an Order is Granted.

### Report 4: Respondent <18 Granted

Decision: Restrains or Protects Respondent

Case File Date	Cause	CaseCnt
2016	DOMESTIC VIOLENCE PETITION	111
	HARASSMENT	166
	SEXUAL ASSAULT PROTECTION	60
	STALKING PROTECTION	26
<b>2016</b>	<b>Sum:</b>	<b>363</b>

Case File Date	Cause	CaseCnt
2017	DOMESTIC VIOLENCE PETITION	100
	HARASSMENT	200
	SEXUAL ASSAULT PROTECTION	54
	STALKING PROTECTION	28
<b>2017</b>	<b>Sum:</b>	<b>382</b>

Case File Date	Cause	CaseCnt
2018	DOMESTIC VIOLENCE PETITION	75
	HARASSMENT	225
	SEXUAL ASSAULT PROTECTION	56
	STALKING PROTECTION	38
<b>2018</b>	<b>Sum:</b>	<b>394</b>

Case File Date	Cause	CaseCnt
2019	DOMESTIC VIOLENCE PETITION	76
	HARASSMENT	186
	SEXUAL ASSAULT PROTECTION	65
	STALKING PROTECTION	40
<b>2019</b>	<b>Sum:</b>	<b>367</b>

Case File Date	Cause	CaseCnt
2020	DOMESTIC VIOLENCE PETITION	58
	HARASSMENT	100
	SEXUAL ASSAULT PROTECTION	45

	STALKING PROTECTION	15
<b>2020</b>	<b>Sum:</b>	<b>218</b>
	<b>Sum:</b>	<b>1724</b>

Number of Cases with both PET and RSP < 18 by Case Filed Year, Cause of Action and Order Granted Flag (Y, N)

Count of Granted Flag Filed Year	Cause of Action	Protection Participant Granted Flag		Grand Total
		N	Y	
2016	DOMESTIC VIOLENCE PETITION	6	40	46
	HARASSMENT	10	36	46
	SEXUAL ASSAULT PROTECTION	3	25	28
	STALKING PROTECTION	2	13	15
<b>2016 Total</b>		<b>21</b>	<b>114</b>	<b>135</b>
2017	DOMESTIC VIOLENCE PETITION	4	34	38
	HARASSMENT	27	64	91
	SEXUAL ASSAULT PROTECTION	9	27	36
	STALKING PROTECTION		24	24
<b>2017 Total</b>		<b>40</b>	<b>149</b>	<b>189</b>
2018	DOMESTIC VIOLENCE PETITION	9	25	34
	HARASSMENT	23	64	87
	SEXUAL ASSAULT PROTECTION	9	39	48
	STALKING PROTECTION		32	32
<b>2018 Total</b>		<b>41</b>	<b>160</b>	<b>201</b>
2019	DOMESTIC VIOLENCE PETITION	11	30	41
	HARASSMENT	20	34	54
	SEXUAL ASSAULT PROTECTION	10	48	58
	STALKING PROTECTION		37	37
<b>2019 Total</b>		<b>41</b>	<b>149</b>	<b>190</b>
2020	DOMESTIC VIOLENCE PETITION	3	16	19
	HARASSMENT	7	18	25
	SEXUAL ASSAULT PROTECTION	8	25	33
	STALKING PROTECTION	1	7	8
<b>2020 Total</b>		<b>19</b>	<b>66</b>	<b>85</b>
<b>Grand Total</b>		<b>162</b>	<b>638</b>	<b>800</b>

Number of Cases with Any Case Party < 18 by Case Filed Year, Cause of Action and Order Granted Flag (Y, N)

Sum of count Filed Year	Cause	Protection Participant Granted Flag		
		N	Y	Grand Total
2016	DOMESTIC VIOLENCE PETITION	1139	3209	4348
	HARASSMENT	633	1319	1952
	SEXUAL ASSAULT PROTECTION	62	209	271
	STALKING PROTECTION	22	67	89
<b>2016 Total</b>		<b>1856</b>	<b>4804</b>	<b>6660</b>
2017	DOMESTIC VIOLENCE PETITION	1076	3182	4258
	HARASSMENT	669	1411	2080
	SEXUAL ASSAULT PROTECTION	45	173	218
	STALKING PROTECTION	12	85	97
<b>2017 Total</b>		<b>1802</b>	<b>4851</b>	<b>6653</b>
2018	DOMESTIC VIOLENCE PETITION	1162	3277	4439
	HARASSMENT	706	1471	2177
	SEXUAL ASSAULT PROTECTION	62	225	287
	STALKING PROTECTION	14	105	119
<b>2018 Total</b>		<b>1944</b>	<b>5078</b>	<b>7022</b>
2019	DOMESTIC VIOLENCE PETITION	1134	3212	4346
	HARASSMENT	630	1399	2029
	SEXUAL ASSAULT PROTECTION	58	216	274
	STALKING PROTECTION	17	107	124
<b>2019 Total</b>		<b>1839</b>	<b>4934</b>	<b>6773</b>
2020	DOMESTIC VIOLENCE PETITION	1018	2844	3862
	HARASSMENT	631	1068	1699
	SEXUAL ASSAULT PROTECTION	48	173	221
	STALKING PROTECTION	14	55	69
<b>2020 Total</b>		<b>1711</b>	<b>4140</b>	<b>5851</b>
<b>Grand Total</b>		<b>9152</b>	<b>23807</b>	<b>32959</b>

# Appendix J

	<b>Gender and Justice Commission (GJC)</b> <b>E2SHB 1320 – Litigant Rights &amp; Access Group Meeting</b> <b>Wednesday, August 11, 2021</b> <b>12:00 PM – 12:45 PM</b>	
<b>MEETING NOTES</b>		

**Stakeholders Present**

Megan Allen  
Samantha Boggs  
Debbie Brockman  
Claire Carden  
Dr. Dana Cuomo  
Jenn Davis Nielsen  
Tara Dieng  
Vonnie Diseth  
Michelle Dixon-Wall  
Natalie Dolci  
Yuridia Equihua  
Commissioner Patricia Fulton  
JoDee Garretson  
Carolyn Gray  
Commissioner Jackie High-Edward  
Judge Gregg Hiramawa  
(Ret.) Judge Anne Hirsch  
Grace Huang  
Katie Hurley  
Natasha Johnson

Michelle Lucas  
Frank Maiocco  
Dirk Marler  
Dee Morill  
Riddhi Mukhopadhyay  
Amy NoOneElse  
Ruby Ochoa  
Karen Pillar  
Angela Rogness  
Amanda Rodriguez  
Laurie Schacht  
Judge Ketu Shah  
Sandra Shanahan  
Judge Jackie Shea-Brown  
Kyler Steffe  
Mary Welch

**Staff**

Moriah Freed  
Laura Jones

**Overview of E2SHB 1320**

Welcome, participants invited use chat for introductions. Goal to keep wrap up in 30 minutes.

Overview of HB 1320 project structure and deadlines:

- Recommendations to Legislature due December 1, 2021
- Recommendations to the courts due June 30, 2022

Overall project leads: Judge Jackie Shea-Brown and Erin Moody

- Research & Information Sharing Group
- Technology
- Litigant Rights & Access

Legislative sponsors attended initial stakeholder meeting on July 28, 2021 and emphasis on practical exercise. Focus in on recommendations that can be implemented, not on fancy report

#### **LOGISTICS AND WORK PLAN FOR DECEMBER 1<sup>ST</sup> DELIVERABLES**

- At least through December, we plan to meet twice monthly:
  - 2<sup>nd</sup> Wednesday of the month
  - 4<sup>th</sup> Friday of the month
  - Action Item: Reach out to Laura Jones if you have not received these calendar invites
- After today, that leaves 6 meetings. Plan to focus on topics sequentially as opposed to all at once:
  - August 27, September 8: Coercive control
  - September 24, October 13: Best practices for minor litigants
  - October 29, November 10: Jurisdiction
- The first meeting on each topic will focus on review of available materials, identifying missing resources and information, and initial discussion
- The second meeting on each topic will continue the discussion, zeroing in on recommendations and best practices
- A survey will be sent out following the second meeting on a topic for feedback and additional information
- Review and feedback will be solicited for final recommendations
- Action Item: Stay tuned for more information from Laura Jones re: online share drive (Box)

#### **ADJOURNMENT & NEXT STEPS**

Action Item: Homework before our next meeting on August 27<sup>th</sup>:

1. Review E2SHB 1320 (Sections 12, 16, 36 in particular)
2. Read materials on share drive related to coercive control
  - a. What are the missing resources?
  - b. Review definition from original bill – Is this a good starting point? What works and doesn't work?
3. Calendar upcoming meetings



**Gender and Justice Commission (GJC)  
E2SHB 1320 – Litigant Rights & Access Group Meeting  
Friday, August 27, 2021  
12:00 PM – 1:00 PM**



**MEETING NOTES**

**Stakeholders Present:**

Francis Adewale  
Megan Allen  
Amber Barcel  
Judge Elizabeth Berns  
Samantha Boggs  
(Ret.) Justice Bobbe Bridge  
Claire Carden  
Dr. Dana Cuomo  
Keith Curry  
Tara Dieng  
Vonnie Diseth  
Michelle Dixon-Wall  
Natalie Dolci  
Yuridia Equihua  
Jake Fawcett  
Judge Michael Finkle  
Kate Francis  
Commissioner Patricia Fulton  
Carolyn Gray  
Elizabeth Hendren  
Commissioner Jacquelyn High-Edward  
Judge Gregg Hirakawa

(Ret.) Judge Anne Hirsch  
Ali Hohman  
Grace Huang  
Chelle Hunsinger de Enciso  
Natasha Johnson  
Dirk Marler  
Erin Moody  
Dee Morrill  
Carey Morris  
Riddhi Mukhopadhyay  
Ruby Ochoa  
Tracee Parker  
Karen Pillar  
Amanda Rodriguez  
Judge Averil Rothrock  
Dawn Marie Rubio  
Laurie Schacht  
Judge Ketu Shah  
Judge Jackie Shea-Brown  
Kim Todaro  
Mary Welch  
**Staff:**  
Laura Jones

**WELCOME, OVERVIEW**

Welcome and administrative reminders: correct name/title on Zoom to capture attendance, given the number of participants please use chat or raise hand function

Focus of the meeting on coercive control (first of two meetings on this topic). Encouraged those who have not done so already to review materials on Box.

**WHY ARE WE CONSIDERING INCLUSION OF COERCIVE CONTROL IN DV DEFINITION?**

The last time the DV definition was updated was in 1995 when stalking was added. Those who work with DV survivors know that there are many behaviors not encompassed in definition.

Example shared of perpetrator controlling and micromanaging victim's life, had absolute control, but nothing that met the DV definition in RCW 26.50.

From fatality reviews, theme of mismatch between DV and what survivors experience in everyday life. David Adams' research strongly suggests that controlling/possessive behavior is a significant risk of lethality.

Coercive control is the crux of DV. Gives survivors a way to explain history of DV happening post-separation.

The point is to get the decision maker to understand that DV is not just an isolated act of violence. Long-term infringement on safety.

### **CONCERNS ABOUT INCLUSION OF COERCIVE CONTROL IN DV DEFINITION**

Abusers twist the law to manipulate

- Similar to protective behaviors in contested custody cases
- Cross petitions in DV context
  - o Note: There is language in definition as initially proposed re: "vexatious or abusive litigation against the petitioner"
- Biases built into the system, lack of education and training
- That very manipulation is the pattern of coercive control. The examples cited in (g) include ways that abusers misuse the legal process. We should prepare for the way the statute may be manipulated, but it cannot prevent us from moving forward.
- Reference to NW Network training about how almost any behavior can be used by an abuser to control, or by a survivor who is attempting to resist control. Sometimes survivors' resistance is angry, or loud, and could look like aggression if the context is not considered
- Mention re: determining primary aggressor with regard to mandatory arrest. Supposed to involve critical thinking and analysis that doesn't always happen. Used against immigrant women, women of color, etc.

What is the specific problem we're trying to solve and how can we think more expansively about what might help those folks?

- Providing housing and other resources outside of the legal system does not exclude also refining the legal definition of DV for survivors who are still being stalked and controlled after they try to leave

Concerns about whether courts are equipped to implement

### **COERCIVE CONTROL DEFINITION AS PROPOSED IN INITIAL HB 1320, REFERENCED DURING DISCUSSION**

"Coercive control" means a pattern of behavior that in purpose or effect unreasonably interferes with a person's free will and personal liberty and is used to cause another to suffer

physical or psychological harm. Examples of coercive control include, but are not limited to, unreasonably engaging in any of the following:

- (a) Making threats of harm, dependence, isolation, intimidation, and/or physical forms of violence;
- (b) Isolating the other party from friends, relatives, or other sources of support;
- (c) Depriving the other party of basic necessities or committing other forms of economic abuse;
- (d) Controlling, regulating, or monitoring the other party's movements, communications, daily behavior, finances, economic resources, or access to services;
- (e) Compelling the other party by force, threat of force, or intimidation, including threats based on actual or suspected immigration status such as threats to contact federal agencies, to engage in conduct from which the other party has a right to abstain or to abstain from conduct in which the other party has a right to engage;
- (f) Using technology, including, but not limited to, cyberstalking, monitoring, surveillance, impersonation, or distribution of intimate images, to harass, stalk, or abuse;
- (g) Engaging in vexatious or abusive litigation against a petitioner to harass, coerce, or control the petitioner; to diminish or exhaust the petitioner's financial resources; or to compromise the petitioner's employment or housing;
- (h) Engaging in psychological aggression; and
- (i) Frightening, humiliating, degrading, or punishing the other party.

#### **DISCUSSION RE: BRIGHT LINE DEFINITION / REASONABLENESS STANDARD**

Makes it easier for the court, law enforcement, petitioners

Proposed language: "Domestic violence is defined as harassment or stalking [add additional items if not sufficient] as used in sections [once 1320 is codified we will know the sections] and the relationship between the petitioner and the respondent is either that of intimate partners as defined in section [once 1320 is codified] or household or family members as defined in section [once 1320 is codified]"

- Intended to include more DV cases. Not stop us from including a large number of other cases, goal is to expand the definition to include harassment and stalking which might not be included now

"a pattern of behavior that in purpose or effect causes another to suffer physical, psychological, social, or financial harm"

- Is the suggestion that the phrase "or effect" be deleted from the opening paragraph of the model definition? Perhaps as a way to distinguish "defensive" behaviors from "aggressive" ones? Or at least get slightly closer to a brighter line?

Is it workable to add to the definition what is NOT coercive control? "Coercive control does not include actions by a party to resist or defend against harm by another party" and/or "In evaluating whether coercive control is established, courts must consider the dynamic of the

relationship, the evidence of a pattern, and indicators of manipulation of the circumstances by an abusive partner.

We need to have the “unreasonable” type language- if it’s just a bright “if X happened, you grant the order” it’s going to be much easier for an abusive partner to get an order against someone if they can point to specific instances of the behavior engaged in by the respondent

Concerns about how reasonableness language could be used against victims

Training needed for judicial officers re: what patterns of behavior “unreasonably interfere with a person’s free will and personal liberty....”

- ICE: Intent, context, effect

Context is everything—context in the statute can help judicial officers by grounding the reasonableness factor

“Reasonable” language should be deleted. No abuse can be considered reasonable, and allowing judges to even consider the reasonability of an abusive act contradicts the purpose of protection orders, which is to provide some sense of safety

Language as in Maryland’s proposed statute could be a barrier: “the individual engaging in the behavior knows or reasonably should know”

“Unreasonably” may not be particularly helpful—largely because the examples in the proposed definition already include a lot of limiting caveats, e.g. “vexatious or abusive” in subsection (g)

We might consider keeping unreasonably at the beginning (unreasonably interferes), but strike it later so that the last phrase reads: “but are not limited to any of the following” In this way, the findings the court will focus on are (1) pattern of behavior that unreasonably interferes with free will/liberty and (2) used to cause another to suffer physical or psychological harm. The judge is looking to make those two findings. Having “unreasonably” may help the abuser from turning the situation around on the survivor, and is a touchstone of judicial evaluation. Then the examples are simply examples and don’t add extraneous language.

#### **DISCUSSION RE: INCLUSION OF EXAMPLES/BEHAVIORS IN THE STATUTE**

Important to include examples because statute will roll out faster than training

- Withholding of basic necessities (e.g. medication)
- Technology-enabled coercive control, as a pattern of coercive and controlling behavior
- Suggestion to add criminal records to (e) in originally proposed definition- opposing parties utilize lack of legal access while the mother is incarcerated to get parenting plan by default or restrictive parenting plan
- Access to work or ability to work
- Pet abuse

- Abuse of others (cases where people who are trying to support the survivor are threatened or intimidated)

Look at whole pattern of behavior and intentionality of tactics

What we're talking about is a collective pattern of behaviors—emphasize that. These behaviors interfere with personal liberty. Analyze impact on parties through that lens.

Suggestion to include what is NOT coercive control. Without guidelines or a definition, survivors are hurt more. Have to look for a pattern.

Context has to be considered—whose world is “getting bigger” and whose world is “getting smaller” with these behaviors?

Maryland's proposed statute: “the individual engaging in the behavior knows or reasonably should know” could be a barrier

An alternative or compliment to having a long list of examples in the legislation is that there can be language included in the intent section and/or use an approach taken by Model Codes where there is a commentary section

## **TRAINING**

Part of a judge's job is to sort out what is really going on. ONGOING training is a great part of that package. A combination of practical issues of working through the orders and a more philosophical aspect involving power and control

Also need to educate attorneys

Judges and attorneys are required to take a certain amount of ethics education each year. If there was enough affordable DV training available across the state that might be possible, but making it mandatory would likely draw opposition

Consistent training on DV is offered to judges, including coercive control. Additionally, court-specific training on DV for those who are actively addressing these cases on a daily basis. Stressing the importance of this training and getting judicial officers to really engage (and attend) is where we could use more support

Note: Sec. 35 of bill mandates training. Original bill included training on “evolving uses of technology as part of coercive control techniques”

## **WHAT ADDITIONAL INFORMATION DO WE NEED?**

Hear from victims/advocates: surveys of advocacy organizations, Washington Women's Commission listening tours

Training resources

- Ret. Judge Hirsch can share some national resources

Used in the immigration context—allowed to get status if “extreme cruelty.” Look to regulatory language and case law.

### **ADJOURNMENT & NEXT STEPS**

Next meeting at noon on Wednesday, September 8<sup>th</sup>

Plan to send out a survey after the next meeting—not everyone had an opportunity to speak up or share in the chat, want to make sure to give everyone the opportunity to weigh in

Send additional resources or information to Laura, Judge Rothrock, Riddhi to share with the group.



**Gender and Justice Commission (GJC)  
E2SHB 1320 – Litigant Rights & Access Group Meeting  
Wednesday, September 8, 2021  
12:00 PM – 1:00 PM**



**MEETING NOTES**

**Stakeholders Present:**

Francis Adewale  
Megan Allen  
Amber Barcel  
Samantha Boggs  
Debbie Brockman  
Claire Carden  
Dr. Dana Cuomo  
Keith Curry  
Tara Dieng  
Vonnie Diseth  
Michelle Dixon-Wall  
Natalie Dolci  
Yuridia Equihua  
Jake Fawcett  
Kate Francis  
JoDee Garretson  
Carolyn Gray  
Elizabeth Hendren  
Commissioner Jacquelyn High-Edward  
Judge Gregg Hirakawa  
(Ret.) Judge Anne Hirsch

Ali Hohman  
Grace Huang  
Chelle Hunsiger de Enciso  
Charlotte Jensen  
Natasha Johnson  
Erin Moody  
Carey Morris  
Riddhi Mukhopadhyay  
Tracee Parker  
Amanda Rodriguez  
Angela Rogness  
Judge Averil Rothrock  
Laurie Schacht  
Sandra Shanahan  
Judge Ketu Shah  
Kyler Steffe  
Kim Todaro  
Mary Welch

**Staff:**

Moriah Freed  
Laura Jones

**WELCOME, OVERVIEW—JUDGE ROTHROCK & RIDDHI**

Welcome and administrative reminders: correct name/title on Zoom to capture attendance, use chat or raise hand function

**SURVEY UPDATE – LAURA JONES**

In order to get broad advocate feedback, we are in the process of finalizing survey questions that will be sent out by WSCADV and WCSAP to their member programs statewide. This survey delves into all of the issues to be considered by this work group, for recommendations to the Legislature and the court. It will also be sent out to invitees to the Washington State Women’s Commission listening tour, and to the Family Law Task Force.

We also anticipate getting feedback via the Washington State Women's Commission listening tour, and WSCADV plans to hold a couple of focus groups next month.

Are we missing any list serves?

- Tracee Parker can share with the Coalition Ending Gender-Based Violence Family Law Work Group (send to her e-mail address)
- Mary Welch suggested the Pro Bono Council

## EDUCATION

Training called out in Sec. 35 of the bill, what about adding coercive control to this?

- Including a funding provision?
  - Support from the group for a recommendation re: funding for training
- Name an entity to implement training?

Training Resources:

- National Judicial Institute on DV (tailor training to WA State?)
- Center for Court Innovation
- Battered Women's Justice Project (SAFeR project)
- International Coercive Control Conference

Other training-related considerations:

- Mandatory
- Ongoing
- Judges need tools

Question raised by some participants: Could we think about training now, and whether the definition can be changed later? Fits within our role to ASSESS how to respond to coercive control.

- Counterpoint: At the end of the day, judicial officers rely on the letter of the law, not the training. Our definitions need to be accurate to what people are actually experiencing that is causing harm

How can we ensure that those who need this training attend those sessions?

The training issue is not just about judges. Advocates also struggle with how to assess how coercive control is operating in an abusive relationship when both people are using problematic behaviors, or both people claim to be survivors. It takes ongoing training but also support and supervision, and tools, and importantly, lots of time to do well. Everyone who "touches" the life of a survivor/victim should undergo training. None of us should be exempt.

We need to consider the perspective that some of the challenges we face have to do with class, and training needs to take that into consideration. Need to bring perspective of marginalized

communities to the table—coercive control looks different for people with resources than for those without

## DEFINITION OF COERCIVE CONTROL

Concern that the decision has already been made that we are adding coercive control to the definition. Where was the discussion about the pros and cons of changing the definition, and how survivors can be negatively or positively impacted?

Discussion about the role of the work group and role to make recommendations

Our ultimate report will be better (and better fit the legislature's directive) if it contains a frank discussion of cons, as well as pros. Hope that some of our members will be willing to research and report on the reasons some practitioners and/or states have opposed or limited the addition of coercive control to PO statutes. This includes where legislation has not passed. Need to do due diligence to examine all aspects of this issue.

Points made in support of including coercive control in DV definition:

- We all agree coercive control is domestic violence. Unjust not to name it in statute.
- People being hurt by current system; it doesn't serve survivors well. These behaviors have gone unacknowledged for decades.
- There is no redress for victim defendants, particularly with their family law matters, without acknowledgement of coercive control.
- Unintended consequences of inaction: people most impacted by coercive control are children
- Not in the statute now, judges will not find it to be part of DV if it's not in the definition. Judges could be reversed if they use it as the basis to enter orders.
- We cannot train judges on something the law doesn't permit.

Points made against including coercive control in DV definition:

- Could allow perpetrators to weaponize the courts against survivors: e.g. to get protection order against victim who engaging in defensive behaviors that fit coercive control definition. That could then lead to potential criminal consequences if they violate the protection order
- Slippery slope—one we include in the civil definition, does that lead to criminalizing coercive control? (E.g. Hawaii)
- The civil system is not separate from the criminal system- survivors looking for protection orders to increase their safety. Requires law enforcement to enforce the order.
- Would require massive and ongoing investment in training and good tools

There is a national clearinghouse for defense of battered women. For states that have implemented coercive control definition, how many calls are they getting from the victim defendant side?

There can be argument that some of these coercive and controlling behaviors fall within the definition of stalking, which incorporates the definition of harassment.

- Can be implied, but the burden is on the survivor then
- We have not seen pro se litigants successfully make those arguments and uphill battle with counsel
  - Most clients will not have representation so unless the definition is more explicit it is not recognized or able to be really utilized to seek protection
  - Concern for people who don't work with advocates. There are many cases in court where petitioners do not have advocates, and don't want a system that only works for people who have access to find and work with an advocate
    - Survivors who have attorneys don't have access to the protection order advocacy program (King County) and some attorneys they may work with are not as experienced with these issues

Coercive control is not about one or two acts. It takes into account the dynamics of the relationship; who exerts the most control over the other; and how that use of control impacts each partner. What needs to happen to be able to show that pattern?

Suggestion to look at Vulnerable Adult Protection Order (VAPO) definition ([RCW 74.34.020\(2\)](#)), which is similar to definitions being discussed. When we get into statutory interpretation, if you are saying the same thing in two different parts of the statute, then say the same thing. If we are talking about isolation/control re: VAPOs, let's adopt that language without the disability or age requirement.

## ADJOURNMENT & NEXT STEPS

Our next meeting will be at noon on Friday, September 24<sup>th</sup>

Action item: Next two meetings focus on juvenile litigants, that folder on our Box drive is empty, so please send resources that you have to Laura

Action item: Once we get survey information, feedback via listening sessions and focus groups, will draft recommendations and send to the group. If we determine we need an additional meeting to discuss, will set a separate meeting likely sometime in November.



**Gender and Justice Commission (GJC)  
E2SHB 1320 – Litigant Rights & Access Group Meeting  
Friday, September 24, 2021  
12:00 PM – 1:00 PM**



**MEETING NOTES**

**Stakeholders Present:**

Megan Allen  
Samantha Boggs  
Debbie Brockman  
Claire Carden  
Tara Dieng  
Vonnie Diseth  
Michelle Dixon-Wall  
Natalie Dolci  
Yuridia Equihua  
Judge Michael Finkle  
Kate Francis  
Commissioner Patricia Fulton  
Carolyn Gray  
(Ret.) Judge Helen Halpert  
Judge Gregg Hirakawa  
Grace Huang

Celle Hunsiger de Enciso  
Katie Hurley  
Erin Moody  
Dee Morrill  
Riddhi Mukhopadhyay  
Ruby Ochoa  
Karen Pillar  
Angela Rogness  
Judge Averil Rothrock  
Laurie Schacht  
Sandra Shanahan  
Leah White

**Staff:**

Moriah Freed  
Laura Jones

**WELCOME, OVERVIEW**

**Agenda: Best Practices for Minors in Civil Protection Order Hearings (Meeting 1 of 2)**

1. Understanding our task
  - a. What went on during legislative session
  - b. What is our directive from the legislature?
2. Volunteers needed for:
  - a. Drafting
  - b. Gathering relevant materials & information
  - c. Who else should we be consulting with on this topic?

**UNDERSTANDING OUR TASK – LEGISLATIVE SESSION & DIRECTIVE**

HB 1320 was an opportunity to improve the protection order process and to make processes for different orders consistent.

Overview given of our legislative directive and the approach to addressing the issues that this group is to consider in sequence vs. all at once

There were some improvements with a focus on youth made during session, e.g. school transfer. Document sent out in advance of meeting containing all provisions of HB 1320 related to youth petitioners and/or respondents.

Emphasis on civil process, although potential overlap with criminal on the sanction issue.

## **VOLUNTEERS**

Objective for today's meeting is to identify volunteers who can gather more materials and information, do reach outs, to inform the group. Help us locate other consultants we may want to reach out to. Be thinking about that as we start the conversation.

Following our two meetings, we will need volunteers to put together a working draft.

Action Item: If you'd like to work on this issue, follow up with Laura Jones after the meeting.

## **DISCUSSION**

Themes/topics identified:

### **1. Right to education**

- a. Divert people out of the legal system for problems.
- b. TeamChild working on obtaining data re: respondents being barred from school. Is there similar data for victims being unable to stay in school?
- c. Schools will not protect victims without a court order, especially if the assault did not occur at the school. The victim's education is disrupted by trauma and constant exposure to the perpetrator. Victims may choose to drop out or leave school, and this changes their life trajectory. Then not only dealing with trauma but have a loss of community, prosocial activities.
  - i. Experience of schools refusing to enforce sexual assault protection orders for the survivor saying they don't apply to the school
- d. School transfer
  - i. Do smaller districts have the means to pay for transportation to another school?
  - ii. What is the determining factor for if a parent cannot afford to pay for it?
- e. What are peoples' experiences working with school officials?
  - i. Generally speaking, hear a lot of complaints about how schools handle
    1. Not helpful/effective in responding to victim safety
    2. Sometimes schools make problems worse
    3. Schools often direct victims to seek protection orders saying their hands are tied without an order.
  - ii. Nuance between antiharassment and other cases

- iii. Recommend another task force to address these issues outside the court system
- f. What kind of information is out there? What kind of research is out there?

## **2. Forum for protection order proceedings**

- a. If they were heard in juvenile court, this would be a more developmentally appropriate response.
- b. Not necessarily the where, but the how- systems, process, access. If you direct these proceedings only to juvenile court, it will limit victims' access to file.
- c. These are civil matters. We need to reduce barriers and keep separate from criminal. There is a discussion about age happening in Sex Offender Policy Board groups, but very different from civil needs to seek safety and protection. Victims are often seeking protection orders because all other systems have failed them.
- d. Concern about decreasing issuance of criminal no contact orders in juvenile court—would juvenile courts have a better track record with civil protection orders?
- e. Victims who have not received sexual assault protection orders in juvenile court have reported feeling dismissed by the court and lacking trust in the fairness of the legal process, some wishing they had never reported.

## **3. Attorneys for youth**

- a. Given the significance of these proceedings for juveniles, there should be a built-in right to counsel
- b. Resource-wise, may be unrealistic to appoint an attorney for everyone with a PO filed against them, and not sure we want to go that route with a remedy that is supposed to be accessible to pro ses. Concern about how much more litigious the process gets when attorneys are involved.
- c. Sec. 14(11) allows the court to appoint a guardian ad litem for a petitioner or respondent under age 18 who are not represented by counsel at no cost to either party. [Unfunded]

## **4. Mental health**

- a. Mental health issues are often at play in youth antiharassment orders. Manifestation of disabilities are used as examples of harassment. Which can be concerning from a disability perspective.

## **5. Sealing juvenile records** (beyond ERPOS, already authorized by HB 1320 Sec. 16(1)(d) and Sec. 48(1) and (2))

- a. Not uncommon for the court files in these cases to contain information and allegations about both Respondent and petitioner
- b. Make these proceedings confidential, similar to how dependency proceedings are treated.
- c. Look at case captioning- use initials rather than full names

- d. Protection orders sit in the “file” for any police officer alongside warrants so that any youth stopped by police will be viewed with that additional lens. It increases all police contact for BIPOC youth that the cops see them having a protection order whenever they are stopped by cops for any reason

## 6. Sanctions

- a. Potential criminal implications for violation of a protection order
- b. How do you have a sanction that will hopefully act as a deterrent? If you get the phase of imposing such sanction, what should it be?
- c. Do sanctions fit with restorative justice model?
- d. What is the purpose of protection order? Punish vs. protection?
  - i. Difficult for a victim to seek a sexual assault protection order and write out in detail about the crime. It’s felt more punitive of the victim than punitive toward the respondent.
  - ii. Survivors who have gotten Domestic Violence Protection Orders have experienced discrimination in housing and employment for getting a protection order
- e. Who can victims call when an order is being violated if the no contact conditions are just a release condition?

## ADJOURNMENT & NEXT STEPS

Thank you all for your collaborative approach to this topic.

Our next meeting will be at **noon on Wednesday, October 13<sup>th</sup>**



**Gender and Justice Commission (GJC)  
E2SHB 1320 – Litigant Rights & Access Group Meeting  
Wednesday, October 13, 2021  
12:00 PM – 1:00 PM**



**MEETING NOTES**

**Stakeholders Present:**

Francis Adewale  
Megan Allen  
Amber Barcel  
(Ret.) Justice Bobbe Bridge  
Debbie Brockman  
Claire Carden  
Dr. Dana Cuomo  
Jenn Davis Nielsen  
Tara Dieng  
Vonnie Diseth  
Michelle Dixon-Wall  
Natalie Dolci  
Yuridia Equihua  
Kate Francis  
JoDee Garretson  
Carolyn Gray  
Commissioner Jaquelyn High-Edward  
Judge Gregg Hiramawa  
(Ret.) Judge Anne Hirsch  
Grace Huang  
Chelle Hunsinger de Enciso

Katie Hurley  
Dirk Marler  
Dee Morrill  
Carey Morris  
Riddhi Mukhopadhyay  
Ruby Ochoa  
Tracee Parker  
Jennifer Pence  
Karen Pillar  
Angela Rogness  
Judge Averil Rothrock  
Dawn Marie Rubio  
Laurie Schacht  
Judge Ketu Shah  
Sandra Shanahan  
Kyler Steffe  
Kim Todaro  
Leah White

**Staff:**

Laura Jones

**WELCOME, OVERVIEW**

**Agenda: Best Practices for Minors in Civil Protection Order Hearings (Meeting 2 of 2)**

1. Report back re: International Coercive Control Conference
2. Updates re: surveys, timelines
3. Continued discussion re: best practices for minors

**COERCIVE CONTROL CONFERENCE REPORT BACK (SANDRA SHANAHAN)**

- Coercive control is a human rights violation
- Hallmarks are domination, control, punishment, micromanagement of intimate partners and children

- Dr. Karen Williams: Historically conceptualized DV as physical violence, but other fears are equally damaging
- Perpetrated by anyone but works best against women because of gender inequity
- Persistent, accelerates post-separation
- Purposeful behavior- physical violence is a tactic, but not all coercive control includes physical violence (Dr. Stark- 90% of violence within coercive control is “non-injurious”)
  - If you can get compliance without violence, why would you risk arrest?
- Constellation of coercive control behaviors includes: isolation, economic abuse, manipulation, mind games (gaslighting), micromanaging and setting rules, stalking, degrading, using children, physical violence, reproductive coercion....
- Dr. Campbell- coercive control is a red flag for lethal violence, shows up in unique ways to the relationship- abuser purposefully targets things most important to survivor and children
  - “Manipulative kindness” to disorient and further entrap survivor
  - Offenders are most dangerous when they believe that they are about to be left or exposed
- Impact on children
  - Children are direct prey and are often used as pawns to enable coercive control
  - Children socialized into belief system that this is what love looks like
  - What does this look like in children?
    - Hypervigilance or dysregulation (misdiagnosed as ADD, ADHD)
    - Negative impact on children is the same as adult victims
    - “Fawning” behavior from children or survivor to “make nice” for their own safety- align with abuser to protect themselves
      - Fight, flight, freeze, or fawn
    - Children blame themselves, fear consequences for abuser AND/OR no consequences, how that will blow back on non-abusing parent
- When we don’t acknowledge or enumerate coercive control, harms survivors (disproportionately women or children)
  - Misdiagnosed or over diagnosed with mental health disorders
  - Survivors are getting arrested when they call the police- behaviors they are recording may not be DV, but they engage in defensive violence
- Women have children taken away from them for “failure to protect” when their abusers harm the children
- Implicit biases
- Most important reason to address:
  - Opportunity to IDENTIFY, INTERVENE, and DISRUPT
  - Without official recognition, harms persist into next generation and across communities
  - Overburdened systems cannot afford to be vehicles that perpetuate coercive control
  - Survivors and children need relief and protection to regain autonomy and liberty
- Questions: What is the trend? Coercive control coming to law in jurisdictions? Are we at a cusp?

- UK, NZ, Ireland: Adopting coercive control into vernacular of DV, chosen to do so on the criminal side
- Most researchers at the conference talked about it conceptually
- Comment: Coercive control reminiscent of grooming in the context of sexual assault.
- Action Item: Sandra hopes to be able to receive materials in a format that can be shared. PowerPoint slides shared via Box.

## **SURVEYS, TIMELINES (LAURA JONES)**

Survey responses of Victim Advocates/Attorneys and of state court clerks, judges and administrators are available on Box in “Surveys” subfolder. There you’ll find a pdf of the individual responses, as well as a pdf with the summaries of responses to each question. We also pulled out each of the topics for our December deliverables into a separate pdf, so you can find all the responses related to Coercive Control, Minors, and Jurisdiction.

The survey of Tribal court judges, clerks & administrators is still open.

On Box, inside the Litigant Rights & Access subfolder, you will also find a Timeline document that maps out the project through our December deliverable, including remaining meetings, when we anticipate circulating drafts, and when feedback will be do. You’ll notice that as of now, we are right on track. A huge thank you to all who have volunteered to draft portions of the report with tight turnarounds!

Please let Laura know if you have any difficulty accessing Box. We have a lot of information available there, and anticipate using it a lot during the drafting process.

## **DISCUSSION – BEST PRACTICES FOR MINORS (WORKING OUTLINE/DRAFT)**

Working draft outline circulated in advance of the meeting, start with the topic of sanctions: How to balance rehabilitation and protection? What sanctions might have a deterrent effect re: violation?

- Research demonstrates that for juveniles, being identified as doing something wrong is a sufficient deterrent (Letourneau).
- Letourneau’s work relies heavily on recidivism rates based on reconviction, not true re-offense rates
- For sex offender policy board looking at juveniles, presentation that looked at long-term recidivism and re-offense. For those offenders who received treatment, including conditions and supervision, recidivism rate more reduced than general population.
- Not just identify, but hold children accountable. We do for all kinds of things as parents, and in other aspects of our lives. Separate from punishment, that accountability piece is more important with youth to shape them into responsible adults. How do we intervene in a meaningful way?

- If a protection order is issued, that is a warning to a youth that their behavior is not okay. Then the next step we're actually talking about is a sanction. Bad behavior identified wasn't enough to modify behavior. What about community service? Something meaningful for the community to account for their behavior?
- Anecdotally, work with a lot of clients when there are protection order violations, both juvenile and adult, and no action is taken on those.
- The parents of the parties are also a significant influence on whether or not the minor recognizes the protection order as a warning vs. miscarriage of justice
- Cannot talk about sanctions without recognizing the disproportionate impact on BIPOC youth
  - o Research also supports that disproportionality is an issue with BIPOC victims
- Therapy for kids who violate POs?
  - o If we are going to require therapy, there needs to be funding for that or low income families may not be able to comply.
  - o Mental health treatment is covered under all insurance plans because of ACA. All children are also eligible for Apple Care.
  - o It isn't always about paying specifically for the counselor, but paying for getting to a counselor, taking time off work or school, transportation, etc.
  - o Youth offending against other youth doesn't have place to acknowledge harm they've done. Not much restoration. In favor of more therapeutic interventions than punitive.
- How to recognize that a good portion of juveniles engaging in these behaviors have experienced or are experiencing violence?
- In school-based issues of harassment, the protection order is not the first time a youth is told their behavior is not ok. The school has already intervened, explained the problematic behavior, often imposed a response under discipline procedures. So protection orders are not the first alert in most cases that involve behavior at school.
- Discuss what the first response is, and should be rehabilitative for youth, and there needs to be funding attached to that.
- Don't know how to think about sanction/treatment for minors across spectrum of all protection orders with combined civil protection order. Likes the idea of combining for adult cases, in minors it is a struggle.
- Data questions:
  - o Is the number of protection orders involving minor petitioners and/or respondents able to be broken down by order type?
  - o Does AOC have data on how many youth are ordered to do detention as a result of a civil protection order? This is not something we see in SAPOs- along with the fact that the orders are effective and we see a small number of respondents who violate.
  - o What is the data on AHOs? Is detention being ordered frequently or is this just an option available for more egregious situations? If those numbers are not high, leave discretion to judges. Diverse degree in situations.
  - o Action Items: Laura Jones to follow-up re: AOC data questions. Sandra to ask a colleague from juvenile division about the number of violations they are getting.

- Sense of powerlessness, lack of autonomy- our ability to help put in place protections and create a safety response should be at the core of what we're doing
- With Referendum 90 passing, and now looking at sex education in the schools, there opportunities there when we're talking about school intervention that we can shape from the gender-based violence perspective? Education happen much earlier, consistently across the state. **\*\*This was in the working outline\*\***
- Think about the lens that we look at this with. If violations are happening, then the petitioner is not safe because the protection order is not doing what it was intended to do. At the center of this bill and this work is providing remedies for victims to access safety. It's easy to center on the individual who is causing harm. Long-term financial, emotional, educational impacts on victims. Same disproportionality. How do we intervene in a way that creates safety, and not just look at impacts on respondent?

The group has a lot of shared values. We don't have to provide the exact perfect solution. Talk about ideas we're sharing and goals for how to approach.

Other related topics:

- Based on survey responses from Victim Advocates/Attorneys, there are inconsistent practices from across the state about how protection order hearings are run. Some comments that require too much from youth, others not enough. May be a topic to address—how to address best practices within the hearing specifically for youth? How to let them have their voice heard in a way that keeps them safe?
- Some counties not allowing advocates in court

Washington State Women's Commission finishing their listening tour, will provide a written report.

## **ADJOURNMENT & NEXT STEPS**

Our next meeting will be at **noon on next Friday, October 22<sup>nd</sup>** and the discussion topic will be jurisdiction.



**Gender and Justice Commission (GJC)  
E2SHB 1320 – Litigant Rights & Access Group Meeting  
Friday, October 22, 2021  
12:00 PM – 1:00 PM**



**MEETING NOTES**

**Stakeholders Present:**

Francis Adewale  
Megan Allen  
Amber Barcel  
Judge Elizabeth Berns  
Claire Carden  
Dr. Dana Cuomo  
Jenn Davis Nielsen  
Tara Dieng  
Vonnie Diseth  
Natalie Dolci  
Chelle Hunsinger de Enciso  
Yuridia Equihua  
Judge Michael Finkle  
Commissioner Patricia Fulton  
Carolyn Gray  
Elizabeth Hendren  
Commissioner Jacquelyn High-Edward

Judge Gregg Hirakawa  
Grace Huang  
Frank Maiocco  
Dirk Marler  
Erin Moody  
Riddhi Mukhopadhyay  
Jennifer Pence  
Karen Pillar  
Judge Averil Rothrock  
Sandra Shanahan  
Kim Todaro  
Mary Welch  
Patrick Wells  
Leah White

**Staff:**

Moriah Freed  
Laura Jones

**WELCOME, OVERVIEW**

**Agenda: Jurisdiction (Meeting 1 of 2):**

1. Municipal Court Jurisdiction
2. Discussion
3. Transfers

**MUNICIPAL COURTS**

King County law librarian helped to put together a research memo on the legislative history for jurisdiction. Protection orders are cases in equity. In *State v. Brennan*, the court found it was a constitutional violation for district courts to be granted authority to hear antiharassment protection orders. 76 Wn. App. 347, 356 (1994). As litigation was pending, the Washington State constitution was amended to expand jurisdiction of the district court to include cases in equity.

We will need to advise the Legislature of this jurisdiction issue.

## DISCUSSION – JURISDICTION GENERALLY

Struck by how confusing this issue is because there are a couple of different problems. Question of where to file and gain immediate relief vs. where you ultimately want the case to be heard.

Theme from the advocate/attorney surveys was they preferred a court based on judicial training, resources.

Similar argument can be made for moving protection order cases involving minors to juvenile court.

Being able to file anywhere is imperative for access. Keep available and open everywhere—filing is a ½ day to full day event. Limiting where orders can be filed limits access. Need to view this through the lens of what litigants need vs. what the system needs.

On the ground problem of being turned away because in the wrong court. Instructing petitioners to go to court in an effort to create access may actually create barriers. Also, even if correct courthouse in close proximity, barriers for people with disabilities (crossing the street, go through security)

Some courts have the same judge hear the temporary order that will do the full hearing. This way, the temporary might be more thoroughly reviewed to ensure that it meets the statutory requirements before the full hearing. Other courts have different commissioners/judges in ex parte hearings than will preside over the full hearing.

Each court has its own forms. HB 1320 will update forms into single petition.

Is this a legislative issue or a customer service issue?

Leave existing structure as is with improvements:

- Training
- Centralization of calendar (rotations create unpredictability)
- Extend this to the transfer process. One-size-fits-all approach won't work.

One of the pieces of HB 1320 is to make courts virtually accessible. Does e-filing remove access barriers of not being able to file in any court?

- Not all petitioners and respondents have access to technology
- Technology Group: Potential survey to understand access to technology

The Washington State Women's Commission has been conducting listening sessions. A common theme is advocates/survivors actively asking for more accessibility. A gap identified with filing electronically: delay in time from granting order to entry by law enforcement. Also, most

petitioners don't get a copy of the petition/order. Huge number of reissuances, service of temporary order only, not petition. Flow of paperwork electronically is an issue right now.

Long-term goal: Integrated courts with baseline level of training, consistent practice, lots of access points but same judges over time. Example of similar approach is baby courts.

Advocacy services available at all courts as orders are initiated?

## **DISCUSSION - TRANSFERS**

In some communities, the court accepts filing even if not in the correct court and will transfer—the court takes the burden off of the petitioner

Shouldn't there be a process for transfer already since RALJ appeals transfer the file from district court to superior court?

Some counties allow transfer via e-mail or fax.

Infrastructure and funding for education of judicial officers and court staff. Ongoing training has been a consistent theme throughout our work.

Streamline factors for transfer to superior court between order types. Consistency is better.

## **ADJOURNMENT & NEXT STEPS**

Our next (and FINAL) meeting will be at **noon on November 10<sup>th</sup>** and the discussion topic will be jurisdiction.



**Gender and Justice Commission (GJC)  
E2SHB 1320 – Litigant Rights & Access Group Meeting  
Wednesday, November 10, 2021  
12:00 PM – 1:00 PM**



**MEETING NOTES**

**Stakeholders Present:**

Megan Allen  
Samantha Boggs  
Claire Carden  
Dr. Dana Cuomo  
Vonnie Diseth  
Michelle Dixon-Wall  
Yuridia Equihua  
Kate Francis  
Commissioner Patricia Fulton  
JoDee Garretson  
Carolyn Gray  
Kristina Hammond  
Judge Gregg Hirakawa  
Grace Huang  
Erin Moody

Riddhi Mukhopadhyay  
Ruby Ochoa  
Tracee Parker  
Karen Pillar  
Angela Rogness  
Laurie Schacht  
Judge Ketu Shah  
Sandra Shanahan  
Judge Jackie Shea-Brown  
Kyler Steffe  
Heather Wehr  
Mary Welch

**Staff:**

Moriah Freed  
Laura Jones

**WELCOME, OVERVIEW**

Last meeting before the end of the year. Report due to the Legislature on December 1<sup>st</sup>. Take a full month break, come back in January to focus on deliverables due to the courts in June 2022.

Second meeting on jurisdiction, last meeting of this year

Jurisdiction draft uploaded on Box, drafts for other sections to be sent out this week. Feedback on these drafts due by Friday, November 19<sup>th</sup>

**Agenda:**

1. Jurisdiction draft
2. Other draft recommendations

**JURISDICTION**

Seemed from surveys, investigation, communication, jurisdiction itself does not seem to be an area of contention. Recommending that maintain as is:

- Flag municipal court jurisdiction issue

- Lack of consistency in transfer process – standardization and allow for direct filing in superior court where district court would have to transfer anyway
- Appropriate funding to ensure that the courts are supported in developing transfer process, education, resources
- Transfer to superior court for consistency in cases involving minors

Opportunity for group to provide additional feedback/concerns:

- Consistency with new forms might eliminate most of the issues that come up with jurisdiction? Did protection order research project awhile back, reviewed petitions from KCSO, and how problematic transfer was from other court. Attorneys in family law work group have said that when start through district court process, it has been disastrous.
  - One petition form – still being developed
  - Focus on transfers, not even county to county, court to court the process is different. Create consistency that in long run less of a burden on court staff and litigants
  - Direct filing remove extra step
- Two points building off previous comment
  - Hope that streamline experience for survivors: mini-trial vs. affidavit
  - Importance of facilitators/advocates to help people as they file
- Read with jurisdiction vs. customer service distinction in mind
- In listening sessions, the issue was really about the experience and training of the judges hearing the cases, familiarity with issues that come up in family court, including for cases without children
- Funding and training consistent among all topics so far
- Looks like decision has been made not to have minor litigants in juvenile court- doesn't seem like it's identified or addressed. In minor litigants section, can be highlighted in this section too. Not all jurisdictions have juvenile court. Let us know if can be highlighted in other sections.
- Those courts that took affirmative step to transfer cases were smaller jurisdictions. Need to also recommend more of a structure, or inform people what happens after their case has been transferred

#### Action Items:

- Acknowledgment of resources needed for facilitators/advocates
- Correct year that ERPOs went into effect to 2016
- Suggestion to include more information about structure- e.g. that courts inform people what happens after their case has been transferred

## **COERCIVE CONTROL**

Discussion has been nuanced, where we've received the most robust feedback from survey, WSWC listening session, WSCADV membership- quite a bit of feedback and thought, identifying concerns and challenges related to coercive control. Tried to capture all perspectives.

Sees coercive control is supported by history of physical assault. Do it one time, then don't need to do again because underlying threat. Aware of studies? E-mail to Laura—see action items below.

Grace and Tracee will look for resources:

- Men Who Kill by David Adams about coercive control
- Grace identified research on what is coercive control vs. what is not coercive control. Theories of the researchers.
- The more we can see full-text, vetted, scholarly articles on coercive control the better

#### Action items:

- In bill, cited escalation from coercive control to physical violence. Temporal order not supported by the literature that we have. Current draft points out other reasons why important to recognize harm, but that being said, if people in this group are aware of studies that support that theory, please send our way. Full text summary.
  - We do have literature that literature that highlight controlling behavior correlated with risk of fatality at separation

### **BEST PRACTICES FOR MINORS**

There's research out there, but also a lot of research we couldn't find.

Focus on progressive aspects of the bill- guardian ad litem, language choice- youth vs. juveniles to differentiate between criminal system

Sealing/initialing, Trauma-informed, Therapeutic community and educational resources

Hard to identify a uniform or best approach in a lot of these areas because of the nuances of the cases that come through.

This is a draft that will be helpful to have your eyes on.

### **DISCUSSION**

Opened up for discussion- last opportunity to meet together before the report is due

### **ADJOURNMENT**

Send feedback, edits on drafts of sections to Laura by Friday, November 19<sup>th</sup>

Thank you. Impressed by this group, appreciate dedication.



**Coercive Control Legislation  
Membership Input Report  
October 2021**

1511 3rd Avenue  
Ste 433  
Seattle, WA 98101

206-389-2515  
[wscadv.org](http://wscadv.org)

WASHINGTON STATE COALITION



AGAINST DOMESTIC VIOLENCE

The logo for the Washington State Coalition Against Domestic Violence (WSCADV) features the acronym 'WSCADV' in a large, bold, yellow, sans-serif font. Above and below the acronym are the words 'WASHINGTON STATE COALITION' and 'AGAINST DOMESTIC VIOLENCE' respectively, in a smaller, black, sans-serif font.

## **About the Washington State Coalition Against Domestic Violence**

The Washington State Coalition Against Domestic Violence (WSCADV) is a nonprofit network of over 70 local domestic violence programs. Our work includes visionary leadership, supporting our member programs, and engaging the public to play a role in ending domestic and sexual violence. Our member programs work tirelessly to help survivors of abuse towards safety and freedom. They are part of the community fabric in all 39 counties and within Tribes and Nations across Washington State. One-third of our member programs are led by and for cultural communities, and include nine Nations or Tribes advocacy programs. Half of our member programs are located in rural areas.

## **Coercive control legislation and WSCADV**

During the 2021 Washington State legislative session, the Washington State Coalition Against Domestic Violence (WSCADV) opposed HB 1320 until coercive control was removed from the definition of domestic violence in civil statutory language. WSCADV also opposed HB 1449 which sought to create the crime of coercive control.

We reached out to our membership programs and key stakeholders to help us thoughtfully consider the impacts for survivors who are using civil and criminal legal options as part of their safety planning and resistance to their partners' coercive and controlling behaviors.

## **Membership input format**

WSCADV engaged member programs in multiple virtual formats including one-on-one meetings, legal advocate gatherings, and formal listening sessions. Participants included member program executive directors, deputy directors, preventionists, legal advocates, legal advocacy managers and coordinators, bilingual legal advocates, family law legal advocates, health educators, and program supervisors. The term "advocates" is broadly used throughout the report to categorize this diverse group of participants. This report includes member programs' perspectives on coercive control in civil and criminal legal contexts. To respect confidentiality, there will be no identifying information of participants.

Input in this report is arranged by themes from advocates' responses to the following questions:

- Is coercive control an issue for the survivors you work with?
- What are general ways you think coercive control should be addressed?
- If coercive control is added to domestic violence statutes, what do you think the impact will be in your county?
- How are judges in your county currently handling Protection Orders?
- With training and support, do you think judges in your county could effectively rule on and understand coercive control?
- How do you feel about coercive control being added to the definition of domestic violence for Protection Orders? In criminal law?

**Advocates agreed that coercive control is central to survivors’ experience of domestic violence.**

Advocates expressed a strong, long-standing consensus that coercive control and exploitation is central to survivors’ experiences of domestic violence. Advocates reflected that coercive control is the heart of the “advocacy definition” of domestic violence. This comes directly from listening to survivors’ experience of abuse. These coercive and controlling tactics are reflected in the Power and Control Wheel that is a commonly shared tool that describes tactics used by abusive partners to maintain power over another person, and reflects the ways in which a survivor loses autonomy and freedom within an abusive relationship.

While survivors very commonly experience physical violence, most of the day-to-day experience of abuse is made up of controlling behaviors that are not illegal (e.g., emotional manipulation, threatening to call ICE or CPS, ruining a survivor’s credit rating, driving a wedge between a survivor and their friends and family to cut them off from support). Survivors overwhelmingly experience domestic violence as an ongoing pattern of coercion, control, and exploitation that affects them at all times, whether or not there is physical violence. The impact of this kind of abuse happens over time, eroding survivors’ freedom and ability to make choices in all aspects of their lives.

*“[Coercive control] tactics are just as harmful as physical abuse.”*

*“Coercive control is rampant and really hampers a survivor’s ability to move on successfully or feel like they’re in control of their lives.”*

**Advocates expressed a need for the legal system to better understand coercive control, but many had concerns about whether expanding the statutory definition of domestic violence would benefit all survivors throughout the state.**

Overall, advocates expressed the need for the legal system to better understand and respond to survivors’ experiences of abuse that fall outside the current legal definition of domestic violence. Advocates recognized that survivors’ lived experience of domestic violence is not fully reflected in the current definition found in our state’s criminal and Protection Order statutes. Many advocates expressed interest in including coercive control in the civil legal definition of domestic violence for the purposes of validating survivors’ experiences and educating the judiciary and public about what abuse really looks like.

Broadly, advocates identified two ways in which the mismatch between the legal definition of domestic violence and the lived experience of abuse limits survivors’ ability to get protection from the courts and legal system:

1) Some survivors experience emotional abuse and coercive control without experiencing physical or sexual violence. In some of these cases, extreme control and isolation indicate a high risk of physical violence and even lethality. Under the current definition, a survivor would not be eligible for a Domestic Violence Protection Order unless they can demonstrate fear of harm or stalking.

Some advocates felt that expanding the definition of domestic violence to include coercive control would be an important step to increase safety for this group of survivors who do not currently qualify for a Domestic Violence Protection Order but need the robust protections not afforded by other civil orders. A bilingual advocacy coordinator noted how important it is to clearly include threats around immigration as one aspect of coercive control, and that adding this to the definition would be incredibly validating to survivors.

*“While some of our clients have never suffered physical abuse, ALL our clients have suffered coercive control. It’s pervasive, and most abusers are experts in continuing to control their victims this way even after separation, for years.”*

2) More commonly, advocates identified concern that Protection Order and family law courts don’t understand the dynamics of power and control in domestic violence, even when physical and sexual violence are also present.

*“From my experience with clients going through family law systems and PO’s, even if there is physical violence, they don’t always get protection through the family law system.”*

Advocates shared examples of judicial officers minimizing the impact of abusers’ subtle coercion tactics, misunderstanding survivors’ safety planning and resistance strategies as controlling or abusive, and making decisions tainted by racial and gender bias.

*“[It’s] a struggle to convey what happens in relationships behind closed doors. A lot of attorneys don’t know this, let alone judges, commissioners, and pro tems.”*

*“Deciding what constitutes coercive control depends a lot on the context of a situation or relationship, beyond the context of a particular incident. We worry that this would be a subjective decision that would be tainted by the biases of police and judicial staff.”*

*“Consider cultural perspectives of judges versus clients. It makes me nervous to think about what a white judge would say [to a person of color].”*

There was no clear consensus among advocates about whether expanding the legal definition of domestic violence to include coercive control would meaningfully improve the courts’ ability to recognize survivors’ experiences of abuse and respond appropriately.

*“Without [judicial] training, this could become a double-edged sword. We see a lot of victim-blaming and abusers being able to manipulate the situation to make it seem that the victim made them do it. I have a little concern there.”*

### **Advocates expressed concerns about implementation, potential unintended consequences, and potential harm to survivors and their children.**

#### No mandatory training

Advocates overwhelmingly thought that robust, mandatory judicial training would be critical to courts successfully implementing an expanded definition including coercive control. Advocates

expressed concern that judicial officers currently do not have the training, tools, or time to accurately identify who is the person causing harm and who is the target of the harm. Assessing patterns of coercive control requires understanding context, impact, and subjective experience of behaviors. Historically, domestic violence training for judicial officers has been voluntary, resulting in a gap in education and practice between those who seek out continuing education and those who do not. Statutory language that encourages but does not require judges and commissioners to participate in training on coercive control would not be sufficient to equip courts to apply an expanded definition of domestic violence.

*“We do want the law to address this, we just have concerns about implementation considering our experience with law enforcement and judicial staff. We’re not sure how to address this.”*

*“I am concerned if a survivor is pro se, and the other party has representation. A judicial officer may be led to believe without education that a survivor is exhibiting coercive control while trying to protect themselves.”*

*“I absolutely understand the validation aspect of having coercive control included in legislation, but have some very real concerns about what it will do in practice. Will judges take this seriously in the family law courts? Will judges be able to differentiate between who the primary aggressor is with Protection Order filings?”*

One of the challenges of expanding the definition of domestic violence is a lack of clarity in how courts would interpret, or evaluate evidence that proves a subjective experience of coercive and controlling behaviors.

*“From a PO perspective, this will be difficult to prove and articulate. Victims will have to endure more of it to put it in the petition. Advocates aren’t attorneys and can’t tell survivors what to write in those sections. Coercive control questions are hard to pinpoint, to articulate where that control comes from.”*

*“It’s just very difficult, retraumatizing, [survivors] don’t know how to explain it on a piece of paper. Then you have abusers who know exactly what to do to discount or recant.”*

*“It should be part of the law, but I worry how it will be proven because sometimes systems are used against the victims themselves.”*

*“I’m wondering if the including the term ‘coercive control’ in DVPO’s might possibly prove more of a barrier at times for survivors because they’d have to really prove a pattern of abusive behaviors. Sometimes the pattern is elusive and hard to prove.”*

*“Much of coercive control is verbal and action based, not texting, calling, or things that can be documented.”*

### Misuse of Protection Order system

Advocates discussed the potential for abusers to use Protection Order petitions to further control and isolate survivors. Many were concerned that including coercive control in the definition of

domestic violence would make it much easier for abusive partners to get an order against a survivor, particularly in some jurisdictions. Advocates in some counties reported that this tactic has become more common in recent years and is continuing to increase.

*“We have seen a rise in perpetrators using court systems against victims. They know how to articulate in petitions to get judges to sign off on it.”*

Survivors in disputed custody proceedings with an abuser face potentially devastating impacts if they have a Protection Order entered against them. Behaviors used by survivors to resist or protect themselves and their children from abuse are frequently misunderstood as controlling and manipulative. In the context of a contested parenting plan, abusers’ ability to misuse the Protection Order system could result in survivors losing access to their children, further endangering victims and their children.

*“Abusers [are] claiming a survivor has isolated them or is emotionally abusive. We are commonly seeing abusers say the survivor is isolating them from their kids and turning kids against them. Coercive control can be mixed up with parental alienation syndrome that survivors get accused of.”*

*“I can see how it will be used against survivors by people who are manipulative, how they can take protective behaviors that survivors are using and twist them. If a survivor removes money from a joint account to leave, is that coercive control? Are they withholding money? Trying to protect kids is withholding access. For survivors, coercive control is what it is all about. There’s frustration that they only care about physical violence.”*

### Unequal access to protection

The experience of seeking a Protection Order statewide varies greatly for survivors who cannot access civil legal representation, community-based advocacy, or language interpretation in a Protection Order hearing. Many advocates shared instances of judges who are biased against survivors, a lack of language interpretation, courts not allowing domestic violence advocates in PO hearings, courts that are not allowing remote access to PO hearings, pro tems that lack adequate training, or courthouses with little assistance for filers. Some advocates expressed confidence in, and positive relationships with, their local courts, judges, and commissioners.

*“Our county takes all domestic violence very seriously. If [coercive control in protection orders] was added... they would use [it].”*

*“I’ve heard a lot of [judges] say they “aren’t hearing anything abusive” when a client talks about coercive control, though [I] have seen some judges be empathetic.”*

*“Currently I’d say that coercive control isn’t being addressed in our county at all except for in family law cases, and even in those cases it’s hard to prove and hard to counteract the biases against victims present in most judicial staff.”*

*“Judges in my county allow abusive parents to get partial custody or do not take into account the ways DV impacts family law cases. They often do not want to address it at all as it ‘does not apply’ or is a ‘separate matter’.”*

### Criminal legal consequences

Some advocates expressed concern that changing the definition of domestic violence in the Protection Order statute will mean more survivors could be involved in the criminal legal system because of potential criminal violations of Protection Orders. One advocate asserted that the civil legal and criminal legal systems are connected.

*“With DVPO’s, a lot of times people are getting those incase someone violates it, that’s part of the criminal system. I don’t see them as operating independently.”*

There was broad agreement among membership that criminalization of coercive control would be harmful for survivors based on their experiences with law enforcement and prosecutors in their communities. A small number of advocates said they support criminalizing coercive control.

*“Our experience is that local police are unprofessional and likely to completely botch these types of assessments, since they already do this when just deciding who is the [primary] aggressor.”*

*“Survivors are more likely to ‘own up’ to what they’ve done in response to violence, but abusers are not. This has led to a lot of survivors being arrested when they are protecting themselves against physical violence.”*

Advocates expressed concerns that a civil legal definition change could lead to support for legislation that seeks to criminalize coercive control. Based on their experiences with local law enforcement, most advocates were concerned about unintended consequences for all survivors, but particularly BIPOC, immigrant, and LGBTQ survivors. They considered the ways in which being charged with a crime can affect legal immigration status, child custody and visitation, the ability to find housing or a job, or accessing benefits.

*“How would law enforcement figure this out? There are many barriers that can come from this becoming a crime. Victims are more often willing to admit what’s going on versus abusers. That creates a lot of victim defendants. The criminal system needs a lot of work. It’s very hard to get a case dismissed once it’s started. I don’t know enough on how it would be prosecuted, can go in the wrong direction pretty quickly. It’s so hard because I can see so much benefit but also much caution and concern.”*

*“If the partners aren’t heteronormative or are people of color there’s a whole other set of biases to contend with. We’ve seen how often police arrest the survivor because the abuser has a visible scratch, only to release the survivor after a couple days in jail when significant bruising becomes obvious.”*

*“Barrier of language on immigrant victims is huge here. When it comes to reporting to law enforcement and the abuser speaks the language very well, law enforcement will take his statement and not believe the survivor and/or not provide an interpreter.”*

### **Advocates shared recommendations on addressing coercive control.**

Advocates shared a broader perspective on what prevention strategies and responses are needed to address and educate the larger community on coercive control. Advocates shared recommendations on supporting survivors experiencing coercive control beyond legal system remedies.

*“Coercive control laws will be difficult to implement until the community itself acknowledges the stigma surrounding domestic violence.”*

Community-based advocates at member program domestic violence organizations shared what they are currently doing to talk about coercive control with community members and identified expanding advocacy services and prevention efforts. Advocates emphasized the importance of prevention efforts to create opportunities to talk about healthy relationships, coercive controlling behaviors, and the role all communities must play in addressing domestic violence. For example, many advocates said that schools and curriculum are an important starting point in prevention efforts, citing mandatory comprehensive sex education.

*“There is a need to increase education on coercive control, to name it, and hold accountable.”*

*“[Our organization] is talking about the need for men and boys’ groups on the prevention side.”*

Within the civil legal system, advocates recommended more language interpreters for Protection Order hearings, more community-based advocacy resources, and robust mandatory judicial training.

*“Thinking a lot about women of color who will be impacted, some of the language falls into [the] stereotype of a good victim. [It] feels like we’re expanding the use of the civil legal system to respond to domestic violence. I don’t see anything happening to address the issues we’ve been saying for decades on what survivors actually need.”*

# Memo

**To:** Litigant Rights & Access Work Group

**From:** Elizabeth Hendren, Attorney at Northwest Justice Project

**Re:** Family Law Implications of Coercive Control in the Civil DV Definition

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Restrictions in temporary and permanent parenting plans are addressed in RCW 26.09.191. A finding of domestic violence against a parent allows a family court to impose restrictions in decision-making;<sup>1</sup> limit residential time;<sup>2</sup> impose conditions on residential time such as supervised visitation, counseling, or treatment;<sup>3</sup> and grant the ability for survivors to opt out of an otherwise mandatory alternative dispute resolution process.<sup>4</sup>

Findings of domestic violence under RCW 26.09.191 are defined by 26.50.010(3).<sup>5</sup> Therefore, any inclusion of coercive control in the definition of domestic violence under 26.50.101(3) would allow survivor parents to address coercive control in parenting plan issues and dissolution proceedings involving children post separation.

Currently, since coercive control is not included in the civil definition of domestic violence, survivors with children who leave their abusive partners have no grounds for restrictions to protect their children and themselves during visitation and exchanges unless there is physical abuse, sexual abuse, or stalking that they can demonstrate. Survivor parents are also forced to attempt to engage in mutual decision-making regarding their children's education, medical, and other major decisions with the co-parent who is engaging in coercive control. What this means is that the survivor parent cannot make any major education or medical decisions without the sign-off of the abusive co-parent. This allows the abusive co-parent to continue using decision-making and time with the children as a way to control the survivor. It also allows the abusive co-parent continued access to the survivor through mandatory alternative dispute resolution processes which are a requirement prior to entry of final orders in most counties absent a finding

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<sup>1</sup> RCW 26.09.191(1).

<sup>2</sup> RCW 26.09.191(2).

<sup>3</sup> RCW 26.09.191(2)(m)(i).

<sup>4</sup> RCW 26.09.191(1).

<sup>5</sup> RCW 26.09.191(1); RCW 26.09.191(2).

of domestic violence, and can be included as mandatory dispute resolution processes after entry of a final parenting plan absent a finding of domestic violence.

Lisa Fontes, an expert on coercive control, notes that long-term exposure to coercive control can lead to mental health issues, addiction, homelessness, poor concentration, and other issues.<sup>6</sup> In other words, the survivor parent can appear unstable or “bad” while the abusive parent appears in control and together. This has been evident in my work with formerly incarcerated mothers who are survivors of abuse. The current definition of domestic violence provides mothers in these situations- mothers whose lives have unraveled often as a direct result of the coercive control and abuse they have endured- with no means to even articulate what they are experiencing to courts in a manner that has any legal relevance to their parenting matters. They instead find themselves in proceedings in which they must justify their own worth as parents after the setbacks they have experienced without any way to address the ongoing abuse they experience during the proceedings through coercive control. And they must do so with their abusive co-parent as an audience to their ongoing humiliation and attempts to redeem themselves to the court.

**An example of this that has come up on multiple times within my work on parenting issues for mothers after incarceration is as follows:**

For background, it is very difficult for pro se litigants to respond to family law actions from prison or jail, and many controlling abusive partners take full advantage of this. Almost always, these cases involve a mother who has already left the father due to abuse. As soon as the mother struggles and comes into contact with the criminal legal system, the father files a petition for a parenting plan that places limitations on the incarcerated mother’s time that is not supported by the facts. For example, I frequently see proposals for no scheduled visitation or contact for a mother who is incarcerated for theft or SUD-related offenses. While these offenses may be a concern to the court, they seldom justify any parent, particularly a primary parent the child is bonded with, from being cut off from any contact with their child. However abusive parents are frequently able to obtain these kinds of orders against incarcerated survivors through a default process because the incarcerated survivor is unable to respond in a timely or effective manner from prison due to limited court access. The parenting plans I’ve seen in these situations seldom say “no visitation,” but will instead include language such as “visitation at the discretion of the father” or something along those lines, which puts complete power in the abusive parent’s control.

Upon the survivor’s release from incarceration, she has grounds to modify the order entered against her through default, which is a legal issue I frequently assist with. However, this process can take close to a year in many counties. In the meantime, when the survivor seeks visitation, I’ve had several cases in which the father tells her she can only have visits with her child if she engages in sexual contact with him. Under the current statutes, this behavior in and of itself is not a basis for limiting the father’s future residential time or decision making. It is unsavory, but it does not obviously meet the current definition of domestic violence. Absent other abuse, survivors in these situations have very little recourse. Having been recently released from

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<sup>6</sup> Presentation on October 1, 2021.

incarceration, they are the ones who must redeem themselves to the court. Their abusers fully take advantage of this situation with impunity under our current statutes. The court often becomes an extension of the abuser's coercive control in these circumstances, requiring updates as to the survivor-mother's progress at the request of the abusive parent, with no avenue for the survivor-mother to raise the issue of the ongoing coercive control she is experiencing post separation to see her children. Our only options in these cases currently are to wait for the parent engaging in coercive control to escalate to physical or sexual abuse that is recognized by the law.

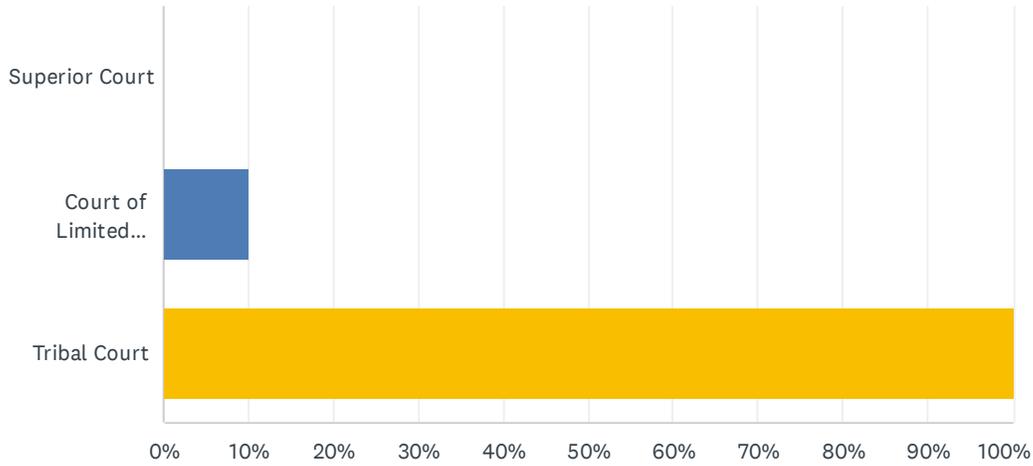
## Q1 What jurisdiction do you preside/work in?

Answered: 10 Skipped: 0

#	RESPONSES	DATE
1	Makah Tribe	10/21/2021 2:39 PM
2	Suquamish Tribal Court	10/15/2021 7:37 AM
3	Nisqually Indian Tribe	10/14/2021 10:15 AM
4	Tribal Court	10/13/2021 8:41 AM
5	Cowlitz Tribal Reservation	10/12/2021 3:18 PM
6	Tribal court	10/12/2021 10:35 AM
7	Multiple tribes	10/11/2021 7:21 PM
8	Colville Confederated Tribes	10/11/2021 4:15 PM
9	Swinomish Tribal Community	9/30/2021 9:53 AM
10	Whatcom County	9/23/2021 10:27 AM

## Q2 What type of court do you preside/work in?

Answered: 10 Skipped: 0



ANSWER CHOICES	RESPONSES
Superior Court	0.00% 0
Court of Limited Jurisdiction	10.00% 1
Tribal Court	100.00% 10
Total Respondents: 10	

#	OTHER (PLEASE SPECIFY)	DATE
	There are no responses.	

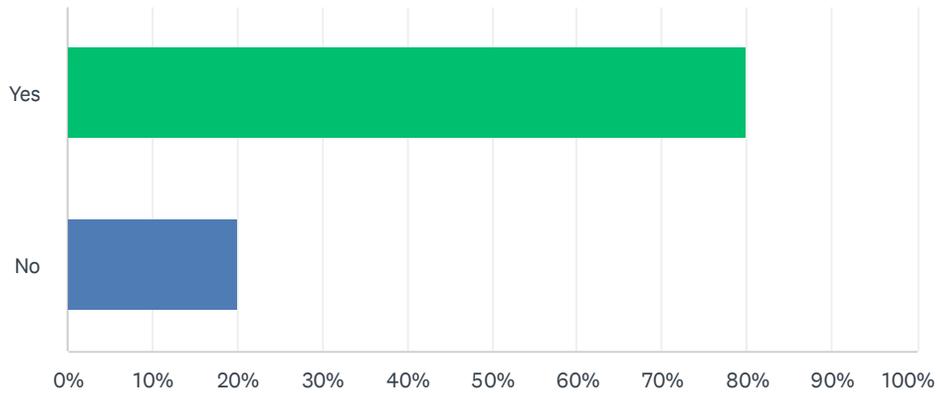
### Q3 What is your position?

Answered: 10 Skipped: 0

#	RESPONSES	DATE
1	Court Administrator	10/21/2021 2:39 PM
2	Chief Judge	10/15/2021 7:37 AM
3	Chief Court Clerk	10/14/2021 10:15 AM
4	Court Administrator	10/13/2021 8:41 AM
5	Tribal Court Administrator	10/12/2021 3:18 PM
6	Judge	10/12/2021 10:35 AM
7	Judge	10/11/2021 7:21 PM
8	Chief Judge	10/11/2021 4:15 PM
9	Tribal Prosecutor	9/30/2021 9:53 AM
10	Chief Judge	9/23/2021 10:27 AM

### Q4 Does your court have access to the National Crime Information Center (NCIC) or Washington Association of Sheriffs and Police Chiefs (WASPC) databases to enter protection orders?

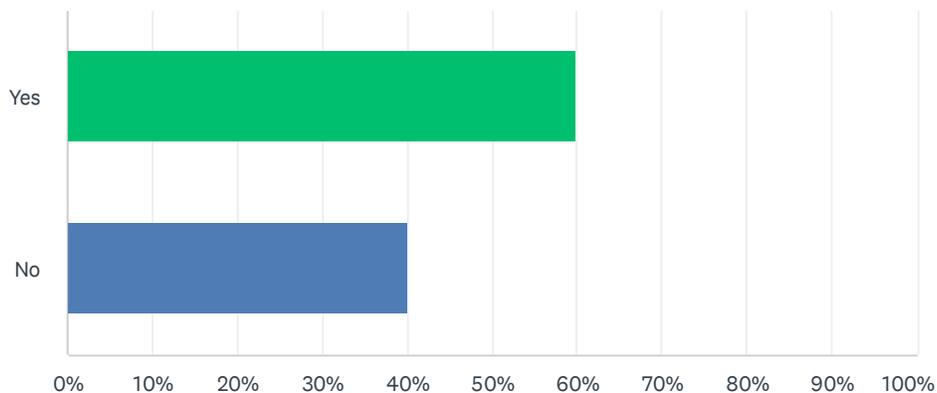
Answered: 10 Skipped: 0



ANSWER CHOICES	RESPONSES
Yes	80.00% 8
No	20.00% 2
<b>TOTAL</b>	<b>10</b>

### Q5 If yes, do you enter protection orders into one of these databases?

Answered: 10 Skipped: 0



ANSWER CHOICES	RESPONSES	
Yes	60.00%	6
No	40.00%	4
<b>TOTAL</b>		<b>10</b>

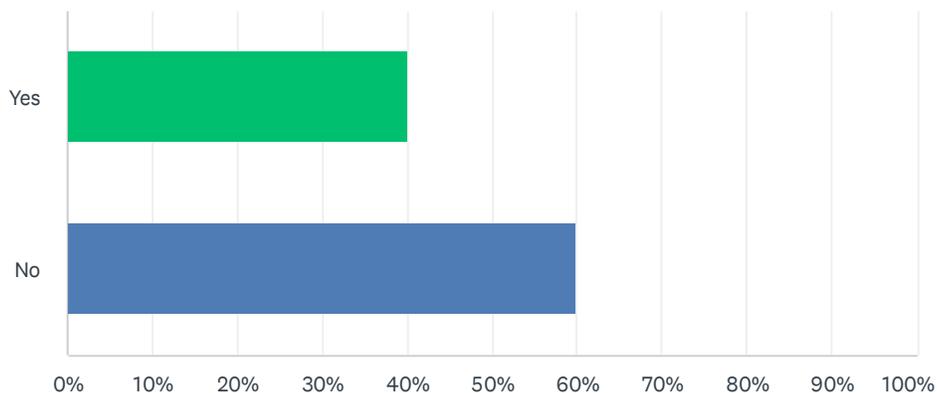
## Q6 If yes, please describe your process for entering orders:

Answered: 8 Skipped: 2

#	RESPONSES	DATE
1	Our court enters permanent domestic violence protection orders into the NCIC database. We, along with our police department, are participants of the Tribal Access Program.	10/21/2021 2:39 PM
2	Clerks are being trained on the entry of these orders	10/15/2021 7:37 AM
3	We just had our unit installed earlier this week. We have not yet entered any of our protection orders into NCIS as the installation took place between 10/12 - 10/13.	10/14/2021 10:15 AM
4	We haven't started entering them yet but will after the first of the year.	10/13/2021 8:41 AM
5	Send them to tribal police for entry into the NCIC database	10/12/2021 10:35 AM
6	Na	10/11/2021 4:15 PM
7	When the Order is issued the Court Bailiff enters it into NCIC through the TAP system.	9/30/2021 9:53 AM
8	Orders are transmitted electronically to the Tribal Police department and they enter the orders.	9/23/2021 10:27 AM

### Q7 Do you file Tribal protection orders with a state court in order for the state court to enter the order into the Washington State judicial database as a foreign protection order?

Answered: 10 Skipped: 0



ANSWER CHOICES	RESPONSES	
Yes	40.00%	4
No	60.00%	6
<b>TOTAL</b>		<b>10</b>

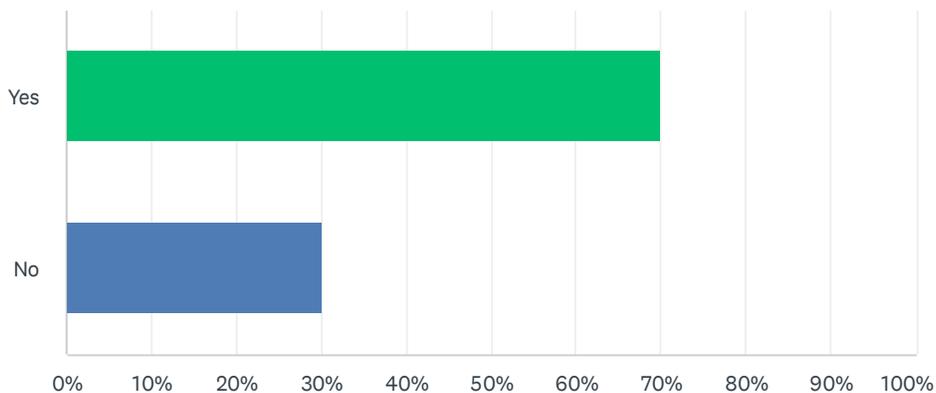
## Q8 If yes, what is the process that you use for filing orders with a state court?

Answered: 6 Skipped: 4

#	RESPONSES	DATE
1	N/A	10/21/2021 2:39 PM
2	email or fax to Superior Court clerk. Clerk then enters into JIS and puts order in Sheriff's box. Sheriff then enters into WASIC	10/15/2021 7:37 AM
3	We e-file them.	10/13/2021 8:41 AM
4	They are currently entered and processed through the county office in which the parties reside.	10/12/2021 3:18 PM
5	Na	10/11/2021 4:15 PM
6	The clerk adds a cover sheet, law enforcement information sheet and a confidential information form to the order and e-mails it to the Superior Court Clerk for entry.	9/23/2021 10:27 AM

### Q9 Would you be interested in having the ability to enter tribal protection orders directly into the Washington State judicial database?

Answered: 10 Skipped: 0



ANSWER CHOICES	RESPONSES	
Yes	70.00%	7
No	30.00%	3
TOTAL		10

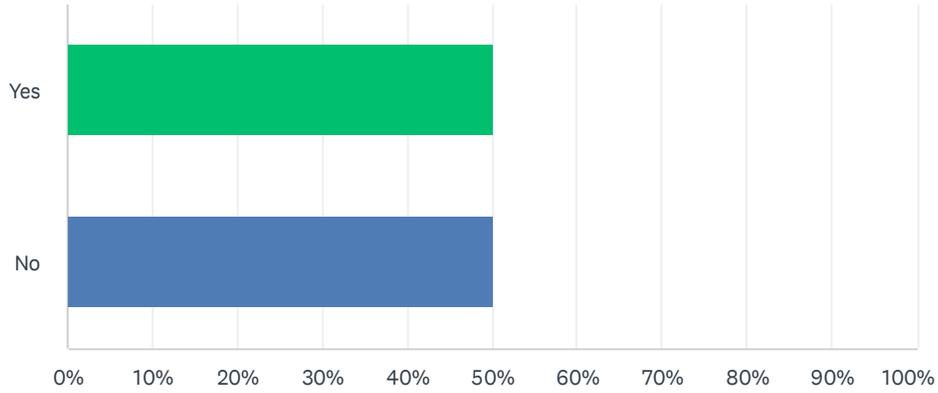
## Q10 Why or why not?

Answered: 9 Skipped: 1

#	RESPONSES	DATE
1	We would be interested in the ability to enter tribal protection orders into the WA State judicial database for information sharing purposes related to officer and victim safety as well as making this type of information available to state judges who otherwise would not have this information.	10/21/2021 2:39 PM
2	Prevents double entry into criminal databases and allows state judicial officers to see tribal court protection orders	10/15/2021 7:37 AM
3	Once we start entering our own orders into the NCIC in 2022 we will no longer have access to entering them into the Washington State judicial database.	10/13/2021 8:41 AM
4	Simplify and update the process	10/12/2021 3:18 PM
5	It is important not to have orders that conflict.	10/12/2021 10:35 AM
6	Makes sense.	10/11/2021 7:21 PM
7	Better protection for victims/survivors.	10/11/2021 4:15 PM
8	That is cumbersome. If we enter it into TAP then it should automatically be in the Washington State databases. The fix should be with the State.	9/30/2021 9:53 AM
9	I would prefer that the Tribal Police handle that.	9/23/2021 10:27 AM

### Q11 Have you experienced any issues with either entering or having Tribal court protection orders entered into a criminal justice system database?

Answered: 10 Skipped: 0



ANSWER CHOICES	RESPONSES	
Yes	50.00%	5
No	50.00%	5
<b>TOTAL</b>		<b>10</b>

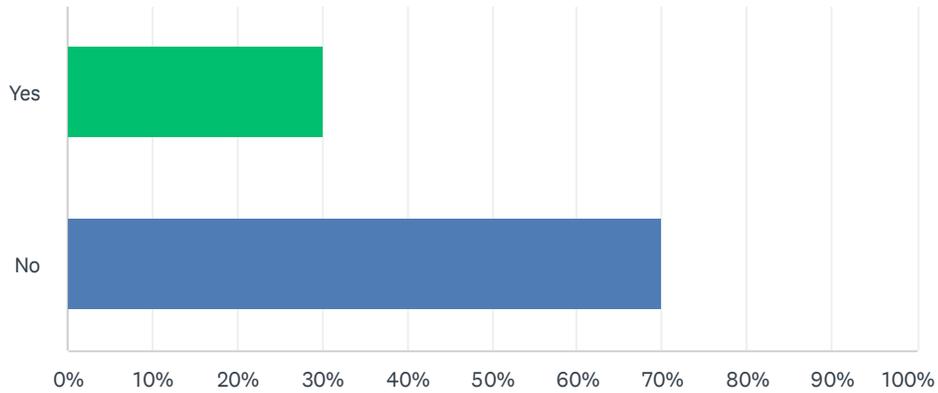
## Q12 If yes, what are the challenges that you have encountered?

Answered: 8 Skipped: 2

#	RESPONSES	DATE
1	We can only enter domestic violence specific protection orders into the NCIC database. We do not have an ORI or way to enter non-DV protection orders into the national system.	10/21/2021 2:39 PM
2	We have not yet entered any of our protection orders, so we have not yet encountered any challenges.	10/14/2021 10:15 AM
3	The orders efiled with the superior court don't always make it to the database	10/13/2021 8:41 AM
4	None	10/12/2021 3:18 PM
5	State courts do not see them	10/12/2021 10:35 AM
6	Trying to get consistent help from the County. We are close to having TAP access.	10/11/2021 4:15 PM
7	None	9/30/2021 9:53 AM
8	When I first took the bench, individuals had to take the order to the Superior Court to be given full faith and credit.	9/23/2021 10:27 AM

### Q13 Do you have access to the Washington State judicial database to look for competing state court orders?

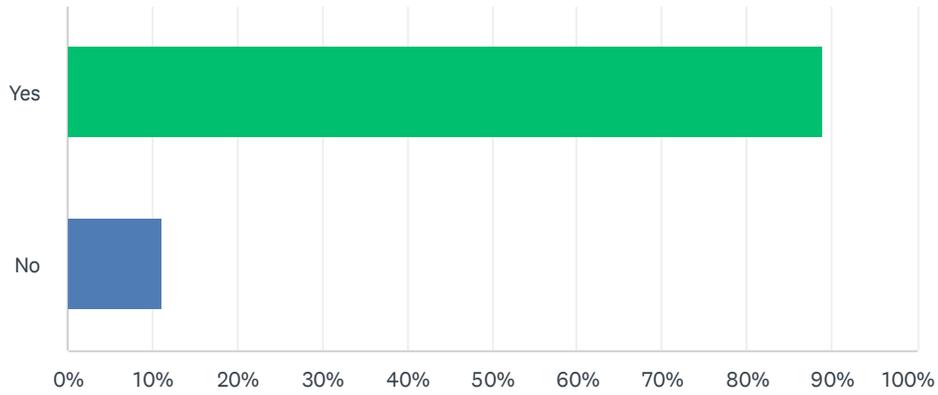
Answered: 10 Skipped: 0



ANSWER CHOICES	RESPONSES	
Yes	30.00%	3
No	70.00%	7
TOTAL		10

## Q14 If not, would you like to have access to the Washington State judicial database?

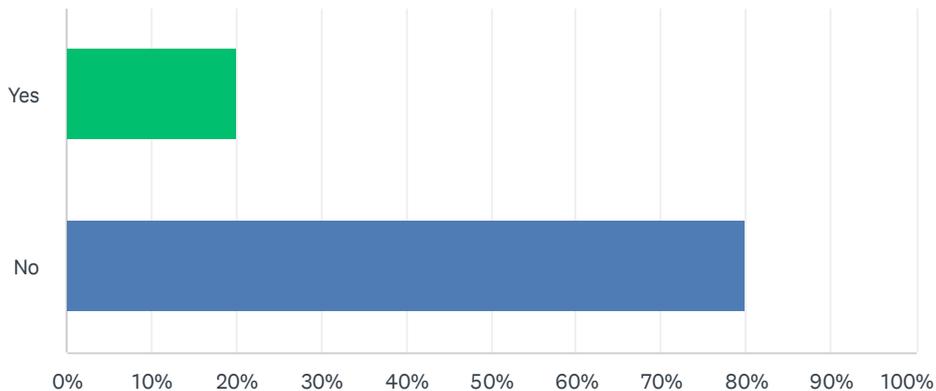
Answered: 9 Skipped: 1



ANSWER CHOICES	RESPONSES	
Yes	88.89%	8
No	11.11%	1
TOTAL		9

### Q15 Are there other databases that you think would be useful for your court to be able to access?

Answered: 10 Skipped: 0



ANSWER CHOICES	RESPONSES	
Yes	20.00%	2
No	80.00%	8
<b>TOTAL</b>		<b>10</b>

Q16 If yes, please provide additional details about those databases here:

Answered: 4 Skipped: 6

#	RESPONSES	DATE
1	Unkown	10/21/2021 2:39 PM
2	Entry ability for JIS	10/12/2021 10:35 AM
3	Maybe, not sure.	10/11/2021 4:15 PM
4	Odyssey	9/30/2021 9:53 AM

# Memo

**To:** Research & Information Sharing Workgroup

**Date:** 10/22/2021

**Re:** Information sharing between state and tribal courts in other states (Oregon, Arizona, Idaho, New Mexico)

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## Oregon:

Information sharing between Oregon state and Tribal courts occurs at the Tribal Court/State Court Forum. The forum was launched in 2015 and formalized by a memorandum of understanding between the nine federally recognized tribes in Oregon and the Oregon Judicial Department. The purpose of the forum is to create and institutionalize a collaborative relationship between judicial systems in Oregon, identify cross-jurisdictional legal issues affecting the people served by those systems and improve the administration of justice for all our peoples. The forum meets annually, with responsibility for hosting the meeting alternating between the tribes and the state.

One of the bills developed through discussion at the forum was SB 183. SB 183 establishes a process for party seeking enforcement of order or judgment of a tribal court of record or a federally recognized tribe and includes any judgment, decree, or order of those courts as a "foreign judgment."

Tribal courts can also interact with Oregon state courts through the Juvenile Court Improvement Program (JCIP), where issues regarding ICWA compliance and child welfare outcome data can be discussed. JCIP designs and delivers education and training to juvenile court judges and justice system partners, develops and advocates for legislation, publishes the Juvenile Court Dependency Bench Book and maintains Model Court Forms for judges, referees, and court staff

## Arizona:

The Arizona State and Tribal Court Forum was formed in 1990, under the Conference of Chief Justices. The forum allows for cooperation and communication among state, tribal, and federal judges to improve the quality of justice delivered in overlapping jurisdictions.

Membership includes federal judges, state judges, tribal judges, attorneys, and public members. The forum meets three times each year. Historically, the forum has worked on issues such as:

- Tribal-State Court Forums;
- Orders of protection;
- Enforcement of tribal court involuntary commitment orders;
- Indian law questions on the state bar exam;
- Creating civil remedies;
- Judicial protocol for allocating jurisdiction between state and tribal courts;
- Resolving tribal-state jurisdictional dilemmas;
- Extradition of persons to and from Indian country;
- Qualified domestic relations orders; and
- Rules of procedure for recognition of tribal court judgments.

State courts in Arizona must give protection orders issued in Tribal court full faith and credit, and shall enforce the orders as if they were issued in state court. In order to streamline the process, and to aid in information sharing, the state supported the creation of the Arizona Protective Order Initiation and Notification Tool (AZPOINT), a project by the Arizona Criminal Justice Commission (ACJC). AZPOINT was established to increase public safety by enhancing access and efficiency for the order of protection and injunctions against harassment process for the public, law enforcement and the judicial system. Since the launch of AZPOINT in January of 2020, 70% of orders issued by the court are served on the respondent within seven days. This represents a significant improvement in the length of time from the old, paper-based system. It took an average of 23 days from when a judge granted an order of protection until the time it was served.

### **Idaho:**

In 1963, Idaho enacted Idaho Code Section 67-5101. This code section created concurrent jurisdiction of tribal and state courts in seven areas: compulsory school attendance; juvenile delinquency and youth rehabilitation; dependent, neglected, and abused children; “insanities” and mental illness; public assistance; domestic relations; and the “operation and management of motor vehicles upon highways and roads maintained by the county or state, or political subdivisions thereof.” This concurrent jurisdiction caused conflicts between tribal and state court orders and competing jurisdictions. Idaho’s Tribal State Court Forum was established to address those conflicts (including the standardization of the process for domestic violence protection orders, resulting in the Uniform Interstate Enforcement of Domestic Violence Protection Orders Act (39-6306A)).

The forum meets annually and as needed to discuss current issues and share information regarding issues of importance to tribal and state courts.

The Idaho Tribal-State Court Bench Book also establishes a process to ensure Tribal courts honor civil orders and judgments issued in state courts. The bench book details what

information must be shared with a Tribal court in order for the Tribal court to enforce the order or judgement.

**New Mexico:**

The New Mexico Tribal-State Judicial Consortium was created in 2003 to:

- Develop educational programs for judges, tribal chiefs, and Indian communities
- Exchange information among and between tribes and nations and agencies;
- Coordinate the integration of Indian Child Welfare Act (ICWA) training for childcare professionals, attorneys, judges, and law guardians;
- Develop a mechanism for promoting resolution of jurisdictional conflicts;
- Foster better cooperation and understanding between and among justice systems; and
- Enhance ICWA enforcement.

The Consortium consists of 14 members, half of whom represent Tribal Courts and the other half represents State Courts at all levels.

The Consortium has a Full Faith & Credit/State Services Committee that reviews the laws, rules and procedures used in domestic orders from both Tribal and state Courts. They make recommendations and collaborate to create model orders that will be recognized by state courts and be given ‘full faith and credit’ when enforced. Recently, the Committee recommended changes that were incorporated into legislation, House Bill (HB) 149, which requires that a pueblo or tribe be notified by the state when a Native American youth is in the juvenile delinquency system at the time of filing a juvenile delinquency petition and not the later disposition of the case, as was previously required under NM law. Further, the bill required tribal and state consultation and collaboration.



## AOC Team

Vonnie Diseth, Dirk Marler, Mike Keeling, Charlotte Jensen, Sriram Jayarama, Jamie Kambich, Tammy Anderson, Dexter Mejia, Ferd Ang, Kim Rader, and Jay Kovuri.

## Question

AOC business and technical staff were asked to brainstorm possible solutions to answer the questions below . . .

1. *How can Washington state court judges of all levels see the existence of, and parties to, tribal court, military, and other jurisdiction protection orders to check for conflicting orders and history?*
2. *How can state courts query the national crime information center to check for tribal, military, and other jurisdictions' protection orders prior to issuing protection orders?*

## Terms and Definitions

- **Enterprise Data Repository (EDR)** – This is only a repository for a limited set of statewide data, not documents. No access to documents.
- **Judicial Access Browser System (JABS)** – This is only a viewer. It is not a case management system. There is no data entry into this system.
- **National Crime and Information Center (NCIC)** – a criminal records database allowing criminal justice agencies to enter or search for information about stolen property, missing or wanted persons, and domestic violence protection orders; to get criminal histories; and to access the National Sex Offender Registry.
- **Criminal Justice Information Services Division (CJIS)** – a high-tech division of the FBI that provides a range of state of the art tools and services to law enforcement, national security and intelligence community partners, and the general public.
- **Washington Crime Information Center (WACIC)** – a crime information center that functions under the chief of Washington State Patrol and acts as a source of data (e.g., driver's licenses, national and state crime information, arrest records, and sex offenders) for law enforcement agencies in the state, non-government establishments and individuals.

## Potential Options Considered

The AOC business and technical teams met on 10/21/2021 to brainstorm potential options and to discuss the pros and cons to each option. The following seven potential options were discussed:

**Option 1: Status Quo**

Tribal Courts send their protection orders to the County Clerks to enter into their case management systems.

Feasible?	Pros	Cons	Dependencies
Yes. This is the current process.	<ul style="list-style-type: none"> <li>– Easiest, fastest, and lowest cost solution.</li> <li>– Already in law (RCW 26.52).</li> <li>– All judicial officers in the state have access to JABS and could then see the tribal court protection orders.</li> </ul>	It has been reported that County Clerks don't always enter the orders that are given to them or do not enter them in a timely manner.	Relies on the willingness of the County Clerks to enter the protection orders into the case management systems.

**Option 2: Tribal Court eFiling**

Tribal Courts eFile their protection orders with the County Clerks.

Feasible?	Pros	Cons	Dependencies
Yes	None	<ul style="list-style-type: none"> <li>– Places the work on the tribal courts and county clerks.</li> <li>– Duplicate entry as tribal courts still enter their protection orders into NCIC and WACIC.</li> </ul>	None

**Option 3: Mandate that each court access the NCIC database**

Each court would be required to access the NCIC database to view existing tribal court issued protection orders.

Feasible?	Pros	Cons	Dependencies
No. Especially, not feasible in small courts that have part-time judges	State courts would be able to view <u>all</u> protection orders including tribes, military, and other states.	– NCIC data would not have other case types for parties involved in the protection orders and would not contain parenting plans or civil type cases involving children.	– Each court would have to have at least one position designated with the appropriate security clearance, training, and access to this database.

<p>and part-time court staff.</p>		<ul style="list-style-type: none"> <li>– Requires training and certification by CJIS.</li> <li>– Has very strict physical security requirements that limit access and viewing of NCIC material in the workplace to only specially designated computers by only personnel certified by CJIS to view NCIC material.</li> <li>– Requires compliance with regulations that limit the purposes for which NCIC data may be accessed.</li> <li>– Courts would have to submit to audits and inspections for CJIS compliance which is a very onerous process.</li> <li>– Requires security background checks and clearances for anyone in the same workspace as the NCIC authorized access point.</li> </ul>	<ul style="list-style-type: none"> <li>– May require funding to implement.</li> </ul>
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**Option 4: Give Tribal Courts access to the courts case management systems.**

State courts grant access to the tribal courts to enter tribal court issued protection orders in their case management systems.

Feasible?	Pros	Cons	Dependencies
No	None	<ul style="list-style-type: none"> <li>– Tribal courts would need access to and understanding of multiple different case management systems in use throughout the state.</li> <li>– In the case of AOC, Tribal courts would need software (the client of Odyssey)</li> </ul>	<ul style="list-style-type: none"> <li>– State court contracts with vendors providing the software licensing for their case management systems would need to be renegotiated.</li> </ul>

		<p>installed on their computers.</p> <ul style="list-style-type: none"> <li>– Tribal courts are not included in state court licensing agreements with their vendors proving the case management software.</li> <li>– Who would pay the cost for the additional software licenses?</li> <li>– There could be negative performance issues on the state CMS by adding more users. Capacity issues.</li> <li>– Tribal courts may have concerns with AOC staff having access to the Tribe’s data and processes (data sovereignty concerns).</li> <li>– AOC staff would have to provide training to the tribal courts.</li> <li>– Data Quality concerns.</li> <li>– Ongoing support concerns.</li> <li>– What would be the reporting requirements?</li> <li>– Many numerous other concerns.</li> </ul>	
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**Option 5: JABS connection to the NCIC database**

Have JABS connect to the NCIC database to enable viewing of all protection orders including tribes, military, and other states.

Feasible?	Pros	Cons	Dependencies
<p>Yes. But, not desirable</p> <p>❖ <i>Depends on confirmation of the CJIS</i></p>	<ul style="list-style-type: none"> <li>– Tribal courts would not have to enter data twice.</li> <li>– State courts would be able to see tribes, military and other states protection orders in JABS.</li> </ul>	<ul style="list-style-type: none"> <li>– All the same issues listed above in Option 3.</li> <li>– In addition, AOC would also have to comply with CJIS regulations.</li> </ul>	<ul style="list-style-type: none"> <li>– Each court would have to have at least one position designated with the appropriate security clearance, training, and access to this database.</li> </ul>

<i>security terms and conditions (regarding not storing the data and access to only a limited set of data).</i>	– Judicial officers would have the benefit of seeing criminal history and cases involving children.		– May require funding to implement.
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**Option 6: EDR accesses NCIC directly**

EDR connects the NCIC API to obtain the data.

Feasible?	Pros	Cons	Dependencies
Yes – Not desirable	None	<ul style="list-style-type: none"> <li>• Would require AOC <u>to store</u> the NCIC data in the EDR, not just view the data.</li> <li>• Would subject AOC to the stringent CJIS Security Requirements.</li> </ul>	It requires a minimum set of data from NCIC to be able to be stored in EDR (i.e., case participant, etc.).

**Option 7: Develop a new application/user interface specifically for tribal court protection orders that would update the EDR database.**

Tribal courts would manually enter their protection orders into a new application developed specifically to capture their protection orders. That information would then update the EDR database and that data would be shared with JABS for viewing by the state courts.

Feasible?	Pros	Cons	Dependencies
Yes	<ul style="list-style-type: none"> <li>– Specific toward this issue and problem we are trying to solve.</li> <li>– All existing hooks to the EDR will continue to function the same way.</li> <li>– AOC has done this type of work before.</li> <li>– Tribal Court do not need to go the County Clerks.</li> </ul>	<ul style="list-style-type: none"> <li>– Would need to clearly understand how the tribal courts function.</li> <li>– What are their processes? Are they standardized?</li> <li>– Would not contain any documents.</li> <li>– Only addresses the tribal court’s protection orders. No other protection orders</li> </ul>	<ul style="list-style-type: none"> <li>– Would require standardization amongst the tribal courts.</li> <li>– There would need to be coordination with all the parties involved.</li> </ul>

	<ul style="list-style-type: none"> <li>– Control is with the Tribal courts.</li> <li>– No need for NCIC access.</li> <li>– One uniform UI for all Tribal courts to enter the PO the same way even if each of the have different internal processes.</li> </ul>	<ul style="list-style-type: none"> <li>from the military or other states would be available.</li> <li>– Requires manual data entry.</li> </ul>	
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### Recommendation

**Option 7** is the most viable solution, with **Option 5** as a second possibility depending on AOC having a better in-depth knowledge and understanding of the CJIS security requirements. AOC could create a user interface where tribal courts can manually enter their protection order data. The data (not documents) will then be stored in the EDR and can be viewed using JABS.

Obviously, without full knowledge of how of the tribal courts operate and with no business requirements at this point in time; this recommendation and the high-level “order of magnitude” estimate comes with a lot of caveats and unknowns. Some questions that would need to be answered are:

- What are the specific Tribal Court business processes in protection order cases?
- How consistent are those processes among the Tribal Courts?
- How similar are those processes to those in state courts?
- How many Tribal Courts would use the system?

One of our concerns would be spending a lot of time and money on development of a new system with no leverage for anyone to use it.

### High-Level Cost Estimate

Option 7 is estimated to be a large IT system development effort that could be in the range of \$1-2 million dollars. The definition of a large system development effort is that it is estimated to take greater than one (1) year, is high risk, requires some type of governance structure, will require a project team, will have Judicial Information System Committee oversight authority, and would require General Fund funding.



**Administrative Office of the Courts**  
**HB1320 – Improving Access to Tribal Court Protection Orders**  
**Technical Discussion of Potential Options**  
**10/21/2021**

AOC estimates the following hours:

For Business related work:	5,000 – 7,000 Hours
For Technical related work:	<u>1,000 – 1,500 Hours</u>
<b>Total:</b>	6,000 – 8,500 Hours

Assumptions:

- The proposed solution would need to be validated. A formal options and cost analysis is recommended.
- Funding for the project would need to be identified.
- There will be significant requirements gathering work to establish the needed protection order data elements.
- Reporting will be needed.
- Change Management and communications will be needed.
- Initial and ongoing training will be needed by the Tribal Courts to enter the data and training will also be needed by the state courts for accessing the data.

Option 5 would bring similar challenges and assumptions. This option would also require substantial business and technical effort, estimated at 3,000-4,000 hours.

# Appendix P

 <p>WASHINGTON COURTS</p>	<p style="text-align: center;"><b>Gender and Justice Commission (GJC)</b> <b>E2SHB 1320 – Research &amp; Information Sharing Work</b> <b>Group meeting (Zoom)</b> <b>Monday, September 20, 2021</b> <b>4:00 PM – 5:00 PM</b></p>	 <p style="text-align: center;"><b>GENDER AND JUSTICE COMMISSION</b> <small>GENDER EQUALITY IN THE JUSTICE SYSTEM</small></p>
<b>MEETING NOTES</b>		

**Stakeholders Present:**

Dr. Avanti Adhia  
Tiffany Deaton  
Judge Michelle Demmert  
Vonnie Diseth  
Kaeli Flannery  
Dr. Amanda Gilman  
Charlotte Jensen  
Mike Keeling  
Ret. Judge Barbara Mack  
Dirk Marler  
Donna McNamara  
Dr. Marna Miller

Erin Moody  
Judge Karen Moore  
M. Abbas Rizvi  
Sandra Shanahan  
Judge Cindy Smith  
Judge Tanya Thorp  
Patrick Wells

**Staff:**

Kathryn Akeah  
Moriah Freed  
Laura Jones

## AGENDA

1. Updates on surveys
  - a. State and tribal court judges, administrators, clerks
  - b. Victim advocate/attorney survey
2. Discussion of working draft
  - a. What additional information do we need?
  - b. Volunteers who could begin drafting background for the topics below and other identified gaps, due by Oct. 18<sup>th</sup> (NCIC, TAP, VAWA)
3. Next meeting (Oct 4<sup>th</sup>) proposed topic: AOC Data Systems

## SURVEY UPDATES

Surveys are underway—survey to courts will be sent out by Wednesday, 9/22 and the victim advocate/attorney survey was sent out on 9/13. Both contain questions relevant to our December deliverable. We will plan to share and discuss the results at an upcoming meeting

Saving the research questions for later- TBD after Dec. deliverables

## OVERVIEW OF ISSUES / WORKING DRAFT / DATA SYSTEMS

Several of our tribes in WA State participate in Tribal Access Program (TAP), allows tribes to enter into NCIC federal database. Although law enforcement can see them, state courts cannot see their orders unless the tribal court works directly with the corresponding court system.

Problem is three sovereigns (Tribal, state, fed), and that one having to rely on the good will of another is not a good process. Judges should have the best information possible to be able to make informed decisions based on all the information. Tribal courts usually know that a state court order has been issued, but it's a one-way street—state courts do not see their orders.

- Not isolated to tribes. Also applies to orders from other states, military courts.

How do we bridge this gap?

The other issue is data sovereignty. One fix to solve this issue is to “domesticate” tribal protection orders through the county. But with this approach, tribe doesn't own its own data and there's no record of it being a tribal court order in national databases.

- One approach is for tribal court to enter a protection order into NCIC and also send to the sheriff's department to be “domesticated” and entered into state system. Requires more time and also duplicates orders.
- Checking multiple databases takes a lot of time

Suggestion to look at how other states with big tribal presence deal with this issue. Do other states have these issues?

- Anecdotally, other states do not have the TAP problem we do

Question: When a person is doing a check in JIS for protection orders, what is looked up? Do judges just want to know that there is a protection order, or a full history?

- Just protection order at this point.
- How are parties correlated between JIS and NCIC if checking multiple databases?

Isn't part of the problem for the state accessing NCIC the security requirements? JIS doesn't meet higher level of security.

- Training and certification and auditing requirements would need to be met by each individual court.
- In JIS, don't get records until three identifiers, have to do sleuthing sometimes
- 26.09 requirements for parenting plan different than what looking for in protection order
- NCIC security requirements fluctuate and change.

King County Prosecuting Attorney's Office has NCIC access. DCYF has NCIC access. There is no solution or best practice that doesn't require work. What is the best thing we can do?

One of the things- differentiate systems we're talking about. Enforcement vs. knowledge of an order. May know it exists, that acted on is a different system.

Keep it really simple. Really about the best information when you're getting an ex parte request for a protection order. Try to have as much information as you can, not going to have every piece of information.

- Example of why this is important: Tribal court issues order, county issues order. Law enforcement shows up to the scene and has to figure out whose order is in effect. Volatile situation. DV perpetrators are masters at manipulating conflicting orders.

Need a couple of different perspectives from state court: When you get this, what are your steps? Both WA state courts and tribal courts not unified.

Not necessarily understand everything, but understand framework for deliverable.

Lacking basic information about AOC databases. Potential presentation, any written materials on AOC databases? (Anticipated that there will be a presentation/discussion on this at the next meeting)

WASPC is the state patrol database, it talks to NCIC. Maybe that's the answer? If NCIC security requirements too rigorous, can we look at state law enforcement database?

- Law enforcement (WASPC) complies with criminal justice information services (CJIS) security requirements, but also get to create some of their own. Whereas tribes have to adopt federal. States treated different because part of compact.
- One tribe told that there was an AG opinion that tribes did not have authority to enter data into WASPC—does that opinion exist?

Think about this issue from your role. What processes/information could you write up?

If we don't have time today, but at next meeting, would be great to figure out who you are and why you're here. Introductions on the agenda for our next meeting.

## **VOLUNTEERS TO ASSIST WITH DRAFTING**

Judge Moore: Happy to volunteer. Provide her information we'd like her to look into by Friday.

Sandra Shanahan: Happy to draft guiding principle- WHY this is an important issue. How it impacts clients, how it can go sideways.

## **ADJOURNMENT**

Next meeting at 4 pm on Monday, October 4<sup>th</sup>.



**Gender and Justice Commission (GJC)**  
**E2SHB 1320 – Research & Information Sharing Work**  
**Group meeting (Zoom)**  
**Monday, October 4, 2021**  
**4:00 PM – 5:00 PM**



**MEETING NOTES**

**Stakeholders Present:**

Dr. Avanti Adhia  
 Val Barschaw  
 Judge Anita Crawford-Willis  
 Vonnie Diseth  
 Kaeli Flannery  
 Dr. Amanda Gilman  
 Charlotte Jensen  
 Mike Keeling  
 (Ret.) Judge Barbara Mack  
 Dirk Marler  
 Dr. Marna Miller  
 Erin Moody

M. Abbas Rizvi  
 Sandra Shanahan  
 Judge Jackie Shea-Brown  
 Judge Cindy Smith  
 Judge Tanya Thorp  
 Patrick Wells

**Staff:**

Kathryn Akeah  
 Kelley Amburgey-Richardson  
 Moriah Freed  
 Laura Jones

**AGENDA**

1. Introductions
2. Overview of AOC’s data systems (Mike Keeling)
3. Q&A

**INTRODUCTIONS**

Participants shared their name, entity representing on this stakeholder group, and why interested in this issue

**JUDICIAL INFORMATION SYSTEMS OVERVIEW– MIKE KEELING**

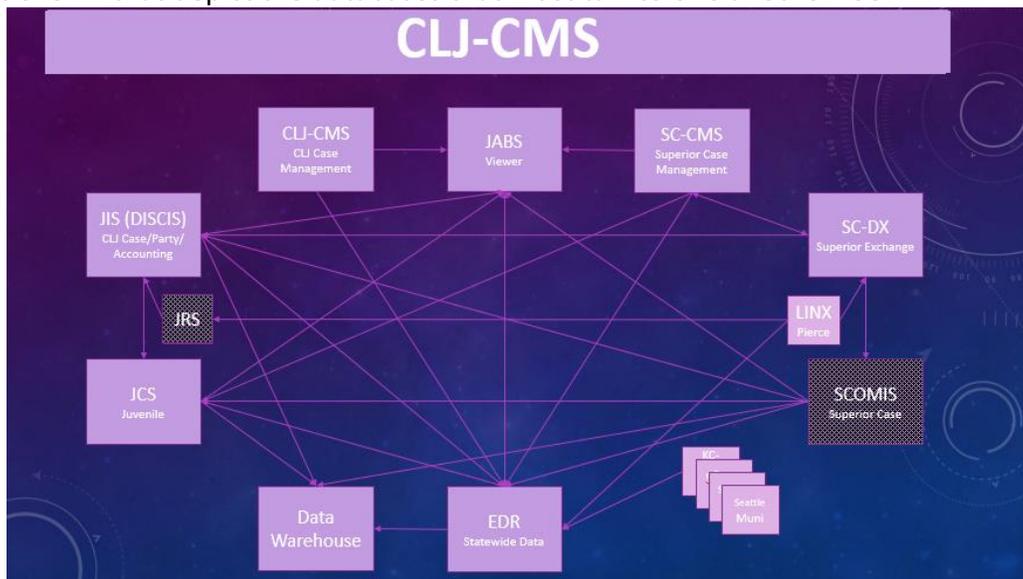
**\*\*PowerPoint sent to the group listserv\*\***

Judicial Information Systems (JIS) is an umbrella term that refers to a suite of judicial information systems. (“JIS” is also often used casually to denote all judicial information systems and can be confused with the suite of systems or the specific JIS DISCIS application.) Includes:

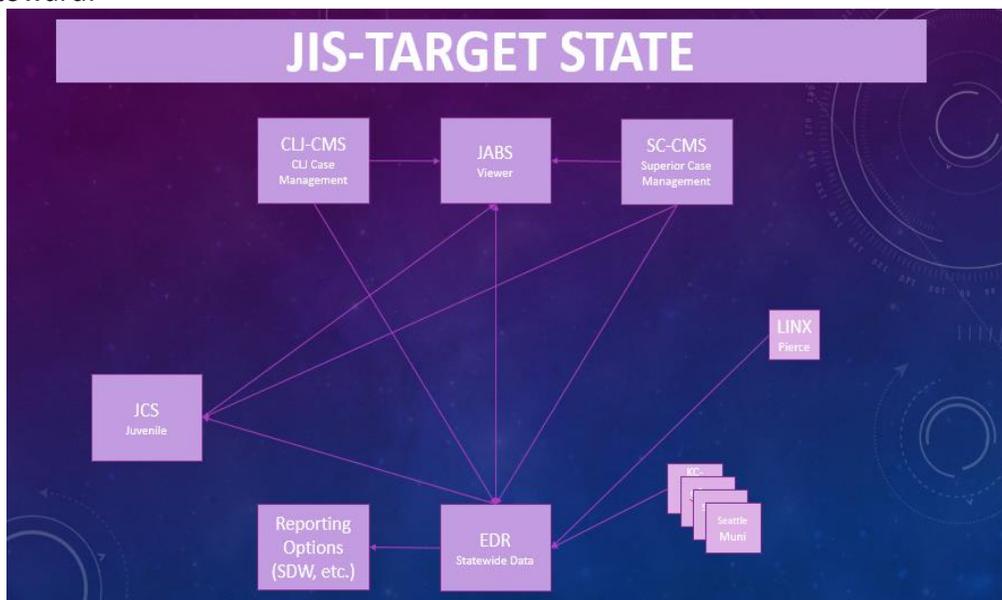
- Legacy systems that will be retired:
  - SCOMIS/JRS- Superior Courts
  - JIS(DISCIS)- Trial Courts

- COTS and standard systems
  - JCS (Juvenile Courts)
  - SC-CMS- Superior Courts
  - ACORDS/AC-ECMS- Appellate Courts
  - CLJ-CMS- Courts of Limited Jurisdiction
- Supporting systems:
  - JABS- Judicial Access Browser System
  - Data Warehouse
  - EDR- Enterprise Data Repository
  - Statewide Data Warehouse

Graphics shown that depict the databases that must talk to one another- CURRENT:



Moving toward:



## DISCUSSION

Is the Enterprise Data Repository (EDR) the nucleus for information about protection orders?

- EDR = data, not documents- does not contain the official court record
- What is the data that it holds?
  - 250 data fields- limited set of data to share with judicial partners to promote public safety. Compared to CMS with thousands of data fields, this is very small
  - AOC has data standards they can share that include a list of these data fields
  - Still in the works – looking beyond to identifying associates of a participant, making sure data meets verification rules, meaningful reporting

Not getting rid of JIS, it is being modernized. One of our problems is language use. Need to provide a good, clear understanding of the technical language.

Could information from Tribal courts be one of the small boxes from graphics that feeds into the EDR? Is that possible?

- Yes, technically not different from what they would do with a county, but capacity is an issue
  - Back-up for partners waiting for EDR is 4-5 years
  - If you add Tribal courts, where do they go in the queue?
  - 2-year minimum effort to integrate to EDR (King County took 6 years)
  - Need to report to legislature about the gap in capacity and what it would take to fix it, an opportunity to request more support for AOC, need a cogent request.
- What if we are just talking about the entry of protection orders, not integration into CMS?
- How sensitive is this data? How will it be protected?

EDR relevant to our second deliverable about data. It's like a filing cabinet—can file whatever we want there. How do we look at it? What would it take for Tribes to be a user?

Two options to see Tribal Court orders:

- Tribal courts enter into state system
- State courts look at NCIC
  - With this option could also see military protection orders and those from other states

Can EDR pull from NCIC?

- No plans to do that in the future

Is the EDR data in real-time or is there a lag?

- Lag of 1 hour – 2 days
- In an emergency situation, data not available in real time

What would it take? Outline the steps and resources needed. If we cannot answer this question by Dec. 1, that is telling

- Not technically complicated, more practically complicated
- How do we move that into something more concrete?
- AOC could pull together staff, look at options and lay out the pros and cons of each.
- The more we know about the challenges, the better. We may only get so far, be able to explain why we didn't get there.

## **ADJOURNMENT**

Next meeting at 4 pm on Monday, October 18<sup>th</sup>.

2-3 volunteers to review and summarize the court survey responses to share at our next meeting. Surveys close today. Laura Jones to reach out to those who are interested.

Thank you to all!



**Gender and Justice Commission (GJC)**  
**E2SHB 1320 – Research & Information Sharing Work**  
**Group meeting (Zoom)**  
**Monday, October 18, 2021**  
**4:00 PM – 5:00 PM**



**MEETING NOTES**

**Stakeholders Present:**

Dr. Avanti Adhia  
Judge Anita Crawford-Willis  
Vonnie Diseth  
Nikki Finkbonner  
Charlotte Jensen  
(Ret.) Judge Barbara Mack  
Dirk Marler  
Dr. Marna Miller  
Erin Moody  
Dawn Marie Rubio

Sandra Shanahan  
Judge Cindy Smith  
Judge Tanya Thorp  
Mary Welch  
Patrick Wells

**Staff:**

Kathryn Akeah  
Laura Jones

**AGENDA**

1. Report backs from volunteer researchers/drafters:
2. Pending items
3. Where are there gaps in information?

**REPORT BACKS RE: RESEARCH & DRAFTS**

Survivor perspective (Sandra Shanahan)

- Worked on the draft with Abbas Rizvi
- Its purpose is to conceptualize the issue around survivors and make sure their voices are centered in this process
  - System integrity/credibility so judges can make informed decisions about cases
  - Importance of firearm prohibitions
  - Discourage misuse of court system by court users in abusive litigation
  - Decrease the number of conflicting orders- add more
- Look at this from the perspective of full faith and credit. Federal law expects that orders will be enforced across states and courts— there needs to be ease of access to these orders so people can act on them.
- Please send her feedback
  - Judge Smith to send her comments

### Victim Advocate/Attorney Survey Responses (Laura Jones)

- Roughly 60/40 split, with just over half of respondents saying they had not experienced issues with conflicting orders, and just under half reporting issues with conflicting orders from state and Tribal, military courts, or courts from other states.
- The advocates and attorneys that indicated there was an issue or issues work in 16 different counties.
- Narrative is where more detail was provided about the impact of conflicting orders. Many centered on making the difficulty conflicting orders create for enforcement, eg.:
  - “I have heard the judge explain that if there [*sic*] are multiple orders in place, the respondent must follow the most restrictive order. However, that is easy for the judge to say and not so easy for law enforcement to determine. Conflicting orders and confusing and when there [*sic*] is confusion, I believe victim safety is more likely to be compromised.”
- Narratives also conveyed confusion: ... “the procedures I’ve seen applied have felt ad hoc, inconsistent, unpredictable, and tough to navigate, even as an attorney who practices in this area of law.”
- Discussion about the impact of the language that we use. When we asked questions about conflicting orders, meant protection orders. But there are other types of orders distributing property, involving visitation, etc. in family law cases. If we don’t title what they are, we’re not talking about the same thing.

### Superior Court Survey Responses (Judge Thorp)

\*\*Summary to be sent out following the meeting\*\*

- Low response rate (14/39 counties) from 5 judicial officers, 9 court administrators. Difficult to identify trends with few responses.
- All survey responders review JIS/JABs. A couple of counties also check Odyssey.
- Emphasize requirement and need for courts to check database.
- One county indicated NCIC/WASPC access, but it is the county attorneys
- No county had a way to identify pre-existing orders
- Thurston County indicated a conflict orders process
  - Action Item: Can we get more information about what this entails?
- One county has relationship with military courts
- Majority want tribal court information
- Smaller counties- one place to look. Great for state courts, but with the systems we have, either state or tribal court is going to have to do more than one thing.
- Over half of responders’ courts don’t have advocacy services
  - Potential Recommendations/Best Practices:
    - Update petition form for Tribal, military, other states’ orders. Ask a more express and clear question.
    - Ask parties on the record about any other court involvement
    - Additional recs from stakeholders on the best way to follow up on a conflicting order
    - CR 82.5 only applies to superior courts - recommend similar rule for military and non-WA courts, expand to CLJs

- Cross reference section of RCW that refers to communication with Tribal courts in custody UCCJA

Courts of Limited Jurisdiction Survey Responses (Judge Smith, sharing information from Judge Demmert)

- 31 courts responded
- 33% had access to NCIC/WASPC, 66% did not. Staff with access varied: prosecutors, probation, lead court clerk, judges
- 95% of responders check JIS for conflicting orders, 5% check NCIC
- 60% of people who answered were interested in NCIC access
- Comment: Letter written last year from DMCJA president addressing concerns with NCIC access.

Judicial Information System (Kathryn Akeah)

- Thank you to AOC for presenting on this topic at our last meeting
- What exists now, where AOC heading in the future
- Includes acronyms, graphics- really speak to how complex the system is
- Includes placeholders for AOC re: cost/staffing, additional ideas
- Want to illustrate how complex it is. Very simplistic view of the real world.
- Question from one of stakeholde runnable to attend meeting: There was much discussion in the last meeting about a central repository for the storage of the **protection order documents**. Is that not possible with the technology that already exists to upload the orders to JABS? This is not currently being done, but I 'think' there was such a feature that AOC was going to offer some years ago in this regard.
  - If one of our members has a question, may be something we want to put into this report
  - Laura Jones to forward that question to AOC for consideration at team meeting

**PENDING ITEMS**

National Crime Information Center information forthcoming (Judge Moore)

Information from Other States forthcoming (Brittany Gregory)

Additional information from AOC - forthcoming, have team meeting scheduled

Tribal court survey responses – not closed yet

Tribal Access Program

- Lead on implementing Tribal Access program (TAP)- Marcia Good, good resource
- Security concerns not insurmountable. Explore what it would take if state courts wanted to access NCIC. Some of the security requirements are more relaxed than they used to be.

- Not saying it is the solution, but we should understand what it would take.
- If there are changes at the federal level that we may want to advocate for that would make that easier, that could also be another recommendation

## DISCUSSION RE: GAPS

- What information do we need? (Whole docket? Entire protection order? Data elements (e.g. protected party, respondent, etc.)?)
  - For tribal court with JABs access, could see protected parties, what was active and could follow-up for more information if needed to know more.
    - Or is that enough? Don't want to have to call up county for that information
  - If cannot know what order says, will have to continue the case. This is a collateral consequence.
  - We all agree this is a gap, how best do we fill this? How do we know what judges need?
  - Phased approach: Recommendations say what's needed now and in the future. Ideally, want to see terms of orders. Crowd source what the preliminary data points that every judicial officer will want to see up front and build toward future of viewable documents.
    - Cannot let perfect be enemy of the good.
    - Would want this to work both ways
    - That may be the way we start moving
    - JIS Data standards- look at data points that are available.
      - Action Item: This was sent to Laura Jones, who will share out
  - Helpful that you wish a judge would have known?
- Data sovereignty- System that is built has to be one that is agreed to in way of government to government relationship. That should be in the framework of the report.

What do we see in NCIC? Just the data fields or the order?

## ADJOURNMENT

Next meeting at 4 pm on Monday, November 1<sup>st</sup>



**Gender and Justice Commission (GJC)**  
**E2SHB 1320 – Research & Information Sharing Work**  
**Group meeting (Zoom)**  
**Monday, November 1, 2021**  
**4:00 PM – 5:00 PM**



**MEETING NOTES**

**Stakeholders Present:**

Dr. Avanti Adhia  
 Val Barschaw  
 Judge Michelle Demmert  
 Kaeli Flannery  
 Dr. Amanda Gilman  
 Brittany Gregory  
 Mike Keeling  
 (Ret.) Judge Barbara Mack  
 Dirk Marler

Commissioner Barbara McInville  
 Dr. Marna Miller  
 Erin Moody  
 Tiffany Runge  
 Sandra Shanahan  
 Judge Tanya Thorp

**Staff:**

Kathryn Akeah  
 Laura Jones

**AGENDA**

1. Review draft report outline, volunteers?
2. Information follow-up:
  - a. Other states
  - b. Tribal court survey results
  - c. AOC summary of information-sharing options
3. Discussion: Other state order processing
4. Discussion: What would be *ideal/perfect* for a judicial officer to see and what would be *good* for a judicial officer to see?

**INTRODUCTIONS**

Commissioner Barbara McInville joining work group

Brittany Gregory, AOC’s Associate Director of Judicial and Legislative Relations

**DRAFT REPORT OUTLINE**

DRAFT- Outline for our section of the legislative report uploaded to Box in HB 1320/Research & Information Sharing (R&IS) Group/Drafting – Information Sharing Issue

Organizational structure and framing of issues that we are contemplating for the report, as well as who has/is drafting various sections

Remaining gaps identified:

- Additional information re: military orders, orders from other states— issues and/or successful processes
- NCIC Information – upcoming meeting this Friday, 11/5 @ 11:30 am with Marcia Good and colleagues
- Tribal court survey results information could be included in potential solutions and tribal court perspectives sections of the outline
- Action Items: Judge Thorp to follow up with Commissioner McInville re: military, Laura following up with Spokane

## INFORMATION FOLLOW-UP

### Other States (Brittany Gregory)

- Asked to look into information-sharing in OR, ID, AZ, and NM
- Memo summarizing findings uploaded to Box
- All states had versions of a forum
- **Oregon**
  - Tribal Court/State Court Forum launched in 2015, meets annually to create/institutionalize collaborate relationship between judicial systems in OR
  - Nine federally recognized tribes
  - SB 183 – process for enforcement of “foreign judgment”
- **Arizona**
  - Arizona State and Tribal Court Forum – 1990, meets three times each year to allow cooperation and communication among state, tribal, and federal judges
  - AZPOINT- Arizona Protective Order Initiation and Notification Tool
- **Idaho**
  - Information from website, meeting scheduled with someone from Idaho AOC upcoming
  - Tribal State Court Forum meets annually
  - Idaho Tribal-State Court Bench Book
- **New Mexico**
  - Tribal-State Judicial Consortium- 2003
  - Full faith & credit/state services committee
  - Model form
- Questions/discussion:
  - Issues of conflicting orders and what they do there?
    - Some states don’t have model order, some states do.
  - One of the issues we’ve encountered is that two orders with same parties, one in state court and one in tribal court- how do we prevent those orders from being issued in the first place?
    - Only AZ had an answer for that with AZPOINT. Action Item: Explore AZPOINT a bit more
  - Most efforts on full faith & credit, in WA this has not been a debate

- Did we ask these courts if they have access to NCIC? Information-sharing might not be an issue if they have that access.
  - Action Item: Brittany to follow-up about this
- Is AZPOINT sponsored by Arizona's AOC or is it an outside contractor that runs the software?
  - Action Item: Brittany to follow-up about this
- Suggestion to follow up with National American Indian Court Judges Association (NAICJA)
- We sent out an inquiry via CCI's National DV Court Forum list serv re: information-sharing between state and tribal courts via registries/databases and received no responses

#### Tribal court survey results (Laura Jones)

- 12 survey responses, 10 from tribes in WA
- Survey responders included primarily judges, some other court staff
- 75% of responders indicated that their court has access to NCIC or WASIC, processes for order entry varied: court personnel enter or send to tribal police to enter
- Approximately 36% of responders indicated that their courts file tribal protection orders with a state court for entry into JIS. The method for transmission varied—e-mail, fax, e-filing, put in sheriff's box
- Approximately 2/3 of survey responders indicated that they would be interested in the ability to enter tribal orders into JIS due to victim safety, preventing double entry, allowing state court judges to see this information, and to not have conflicting orders
- Approximately 1/3 of survey responders indicated they were not interested in the ability to enter tribal orders into JIS because it would be cumbersome, out of their jurisdiction, prefer that tribal police handle order entry, or would not have access when they begin entering into NCIC
- 1/3 of survey responders have access to view the Washington State judicial database, and 2/3 would like to have access
- About 50% of responders indicated experiencing issues with entering or having Tribal court orders entered into a criminal justice system database

#### AOC summary of information-sharing options (Dirk Marler)

- Walked through document put together by AOC team re: possible solutions to:
  - How can Washington state court judges of all levels see the existence of, and parties to, tribal court, military, and other jurisdiction protection orders to check for conflicting orders and history?
  - How can state courts query the national crime information center to check for tribal, military, and other jurisdictions' protection orders prior to issuing protection orders?
- Option 1: Status Quo+ whereby tribal courts continue sending protection orders to county clerks to enter into their case management systems, variations on that-additional requirement/incentive beyond what's in the current statute. That mechanism already exists.

- Option 2: E-filing, did not appear to be a viable option
- Option 3: Mandate each court to access NCIC database. Could view all protection orders that way, similar concerns to those raised in DMCJA letter
- Option 4: Grant access to tribal court to enter orders into case management system- enter into various case management systems, different for levels, counties
- Option 5: JABS connect to NCIC database- technically feasible, need additional information
- Option 5: EDR access NCIC directly- technically feasible, require AOC to store that data in EDR
- Option 7: User interface for tribal court protection orders

Thank you for this comprehensive and thoughtful presentation.

Look back at state court surveys- high percentage of responders wanted to have access to NCIC, may not be aware of what's required at the individual level.

Discussion: Judicial officers document what they review or consider for issuing orders. This could be a problem with NCIC and the need to destroy certain reports. Pierce Co. has a DV coordinator, looks for conflicting orders in the county – civil PO, superior court family, DV advocate works with people to get on the contested PO process, mirror no contact order. Thurston Co. – only county reporting a process to handle conflicting processes. Amazing what is covered under just one jurisdiction.

Action Item: Information obtained from Thurston County re: its conflicting order process. We will upload to Box.

**ADJOURNMENT**

Because we did not get to the last two agenda items, those discussion questions will be sent out via the list serv with responses requested by COB on Friday, 11/5/21

Meeting with Marcia Good this Friday, 11/5 at 11:30 am



**Gender and Justice Commission (GJC)**  
**E2SHB 1320 – Research & Information Sharing Work**  
**Group meeting (Zoom)**  
**Friday, November 5, 2021**  
**11:30 AM – 12:30 PM**



**MEETING NOTES**

**Stakeholders Present:**

Val Barschaw  
 Chris Chaney  
 Judge Michelle Demmert  
 Mercedes Egan  
 Kaeli Flannery  
 Marcia Good  
 Brittany Gregory  
 Dee Koester  
 Dirk Marler  
 Dr. Marna Miller

Erin Moody  
 M. Abbas Rizvi  
 Sandra Shanahan  
 Judge Cindy Smith  
 Judge Tanya Thorp

**Staff:**

Kathryn Akeah  
 Laura Jones

**OVERVIEW, INTRODUCTIONS**

Introductions of federal personnel:

- Mercedes Egan- Protection Order point person, CJIS
- Marcia Good- Lady Justice, TAP
- Chris Chaney- FBI general counsel, works on TAP issues

Background provided for the work group

**TRIBAL ACCESS PROGRAM**

- TAP was created to help give tribal government agencies, criminal justice and courts, a way to enter and access data in the FBI CJIS NCIC Protection Order File. Tribal Court access via CJIS, use same authority that state courts can use to access the system (“CSA”), enter or look up POs or criminal history of DV. Agencies have to look at the file to get information, need to be a “criminal justice agency.”
- Currently there are 14 WA tribes with TAP access
- Can use TAP to enter tribal court issued protection order, valid nationwide, continues to protect victims when traveling, local police in any jurisdiction can verify protection order instantly
- Who typically has access at a tribe? Tribal police, tribal prosecutor’s office, criminal division of tribal courts, probation and parole programs, different for each tribe.
- Data in NCIC is named based. Name, DOB, biographic info.

- NCIC has 21 “Files”: Protection orders, suspected terrorists, stolen vehicles, stolen firearms, wanted persons, identity theft, foreign fugitive, license plate, boats, etc. Any name search would return info on respondent and protected person.
- Pulls all ordered protection orders except extreme risk protection orders (but new file going live August 2022 will include them).
- Temporary protection orders are still in system too, but do not have Brady indicator to disqualify from firearm purchase.
- NCIC is a real time system, information is visible as soon as it is put in.
- Orders cleared stay in the system as historical inactive status.
- If you do a protection order query, can see cleared and expired. If do person name-based query, only see valid ones.
- TAP is not a database. It is a means of access. If Tribe A is selected to participate and wants agencies to participate, work with them to access members (ORI numbers), then tribes utilize those to access the system. [Tribal Access Program \(TAP\) | TRIBAL | Department of Justice](#)
- 3 legged stool: access, do the hardware/software, provide training and technical assistance

## NCIC REQUIREMENTS

Are there different standards of access? Is access tied to what you’re looking at?

- Restricted/unrestricted files

This legislation relates to civil orders, is there a different set of requirements for a court to access if only protection orders vs. full query on all databases?

- Would know what level of access after applying for an Originating Agency Identify (ORI) to get access
- Encouraged us to compile questions in e-mail

Technical requirements are high speed internet access (TAP program is web-based)

State system CJIS agency (CSA) may have additional requirements. Washington State Patrol memo on WACIC access is the same thing:

- Access terminal
- Fingerprint
- Background check
- Training
- Audit once every 3 years (following policies and procedures? Computerized right now)

Not looking at NCIC means not seeing other states’ protection orders either

Tribal court in CA with one part-time judge and one part-time clerk has access to TAP. Not that big of a lift because support the tribal courts in their efforts. Make sure that staff have training, proper screening.

## DISCUSSION/QUESTIONS

### **Aware of other states seeing tribal court orders in judicial databases?**

Have heard of tribal courts faxing to state courts to be entered into state database, but hasn't heard how successful. Same issue, still missing NCIC orders.

### **Aware of other states where tribes can enter in directly?**

Marcia – no. Not aware of any tribes with permission to enter into state database. WA has interesting standalone. Good idea at the time, but without interoperability missing others.

### **Are other states experiencing similar issues?**

California. There it is a court issue and a law enforcement issue, not checking NCIC, just their state database

Almost like we need best practices of systems to check before enter PO. People are so mobile, move all the time. You really have to look at multiple locations. NCIC and state database

### **Examples of NCIC linking to state judicial system?**

- Know of several states that go the other way, entering PO information into state system pushes to NCIC to save from dual entry. Could enter into a state database and ask to transmit.
- Every state has one CJIS agency, everything has to go through them. In Washington, that is WSP.

AOC not currently subject to CJIS requirements, but this would make AOC subject to CJIS.

Any information related to decisionmaking has to go into the court file. Any printouts the judge sees go into file. Open courts constitutional jurisprudence for state. To follow CJIS requirements, data has to be destroyed

Aware of state court that check state judicial database and also NCIC? Yes. Standard best practice. State court access to NCIC through state CSA, each court has to have own ORI. Your ORI is like your signature block

Authority for court access to FBI CJIS is [28 CFR § 20.3\(g\)\(1\)](#)

Talk to state CJIS officer, have to build a backend to talk with JIS/JABS. It's a question of how much we can automate it. This information helpful that should not be looking to going directly to CJIS/FBI, but engage with someone at WSP re: feasibility between AOC and state state patrol, and state patrol to CJIS, and the return trip for that information. At the end of the day, have built viewer system to pull information from multiple different systems and present at one time to judicial officer. Question is whether feasible to add one more datasource?

CJIS information provided to courts by prosecutors. Judicial officers have a need to physically place in court file the docs they've relied on to make a decision. May also raise other concerns with respect to CJIS security requirements.

## **ADJOURNMENT**

Our next meeting will be on Monday, 11/15 at 4:00 pm. This is our last meeting before our recommendations are due to the Legislature.



**Gender and Justice Commission (GJC)**  
**E2SHB 1320 – Research & Information Sharing Work**  
**Group meeting (Zoom)**  
**Monday, November 15, 2021**  
**4:00 PM – 5:00 PM**



**MEETING NOTES**

**Stakeholders Present:**

Val Barschaw  
 Judge Michelle Demmert  
 Vonnie Diseth  
 Nikki Finkbonner  
 Kaeli Flannery  
 Dr. Amanda Gilman  
 Charlotte Jensen  
 (Ret.) Judge Barbara Mack  
 Dirk Marler

Commissioner Barbara McInville  
 Dr. Marna Miller  
 Erin Moody  
 Judge Cindy Smith  
 Patrick Wells

**Staff:**

Kathryn Akeah  
 Laura Jones

**AGENDA**

Today’s agenda is to discuss/provide feedback on the working draft of our legislative report

**Legislative Update:**

Brief presentation about GJC’s stakeholder groups to Senate Law & Justice Committee this morning, brief overview

**DISCUSSION – FEEDBACK ON WORKING DRAFT**

**Some information is incomplete:**

- E.g. AOC pros and cons, but only from one perspective without tribal or state survey comments/results
- Met with Marcia Good and colleagues about CJIS and TAP, but need more time to dive deeper into WSP requirements

**Productive meeting with Marcia Good, et. al.:**

- Learned a lot from tribal court perspective and their access to NCIC and related data bases. Need to talk with WSP for questions related to Washington.
- State courts can access only parts of NCIC if they want—need to work with state CSA (WSP)
- Also, state courts most likely can keep some data, not destroy all, but need to follow up with CSA (WSP)
- Under the impression that any CJ, electronic or physical, must be protected and destroyed

- Response from feds made it sound like some leeway. Need to follow up—next step would be reaching out to Jim Anderson at WSP. Judge Mack offered to connect, but we may not have time before this report is due.
- When one of the group members worked at the prosecutor’s office, there was a designated person to provide to the court. Why couldn’t one person be designated to do this in each jurisdiction?
- Things have changed with COVID-19, measures might be less restrictive. E.g. of T-1 line, TAP program has become web-based.

**Double Entries (p. 13 of working draft)**

- When transfer to LE, they don’t have discretion to not enter or choose not to enter
- What does LE on the street see in NCIC? Two orders? Conflicting orders?
- Better to have entered twice than not at all
- Is it a big deal if orders are entered twice?
  - It is more a burden on staff and not all state courts have good working relationships with tribal courts and vice versa.

**Is JIS going away?**

- JIS is all of the systems that AOC provides to all of the courts.
- Some people refer to DISCIS as JIS itself. DISCIS is the smaller system, JIS is the collective bigger system. DISCIS being replaced in the next 5 years, but not getting rid of JIS itself.
  - CLJ-CMS is what the new application will be called

**NCIC:**

Connecting JIS to NCIC is a big deal and may not be feasible. Court to law enforcement database. Don’t have all the answers we need about feasibility. Maybe we should call that out a bit more.

- California system is thinking about connecting their judicial information system with the law enforcement database, but not clear on WA connecting JIS or JABS to NCIC. Pilot project to assess the feasibility of state courts meeting NCIC requirements to be able to connect

Clarify the draft, two alternatives:

1. NCIC connect to JIS
2. Pilot project- some state courts volunteer for NCIC access, see how complicated or not it is

**\*\*Do we take out the language about connecting JIS and NCIC?**

Weave in Marcia’s comment about best practices to look everywhere that you can.

The reason why it’s been such an issue for tribal courts, is that after they issue an order, the respondent goes into state court as the petitioner, which creates a dangerous situation for the victim. Power imbalances. Not just a court thing, it’s a victim safety concern.

Pierce County doesn't get information from JBLM. Judge Thorp, Commissioner McInville talked about getting in touch with JBLM folks. Difficult to get documents because chain of command protective of service members.

Action Item: Judge Mack to connect Commissioner McInville with JBLM legal advocate.

Recommendations re: court forms & CR 82.5 – should these be included, or are they outside the scope of the report?

- Court forms are AOC function. Court rules are court function, wouldn't be legislature to take action. Need to clarify.
- Forms and training included in the bill.
- There is another committee looking at forms, due next year
  - What steps does working group need to take to get request to that group?
    - Each group has a representative on the pattern forms committee. If recommendations come from this group, then they figure out how big of a deal it is.
  - Some members of the group recall a request at one time from CLJs for a similar rule to 82.5, but it didn't go through. In general, there is an effort to make rules consistent across court levels.

Distinction between now and spring deliverables are between practices and data gathering.

Laura forwarded Erin's email with questions/comments about the draft to group, in case others have answers to questions.

## **ADJOURNMENT**

Deadline for feedback on the working draft of the report is COB this Friday, 11/19

This is our last meeting before the report is due

Gratitude to all for participating, providing valuable input. Washington is a leader nationally. What we produce could be a useful example to other states.



The Power and Control Wheel was developed by the Domestic Abuse Intervention Project in Duluth, Minnesota.