

COMMITTEE REPORT

Committee: Committee on Systems Improvement (CSI)

Date of Meeting: 1/19/2021

Start Time: 2:15 PM

End Time: 3:15 PM

Called to order: Rachelle Neshkes

Discussion/Action Steps:

Discussed Emergency Rule 8 (a) regarding EPO duration of up to 30 days. This Rule is still in effect although the data collected by Allyson Messenger and the DART teams reflects that most judicial officers are only granting for 5-7 days. "Notwithstanding any other law, this rule applies to any emergency protective order, temporary restraining order, or criminal protective order that was requested, issued, 38 or set to expire during the state of emergency related to the COVID-19 pandemic. Officers can also request extensions of EPOs.

Reviewed the draft of an Officer's Guide to EPOs, prepared by Ria and Marie. We requested that they add back in the practice pointer about reviewing the EPO offer very thoroughly so that the victim-survivors who are in a traumatic state are more likely to hear and remember it.

Ria will look at whether or not the sheriffs use a proof of service by oral service form (Suzie Ferrell had started working on one to supplement the EPO-002 proof of service form but it is unknown whether or not it was adopted for use.) That form may have been in development to prove that verbal notice actually put the defendant in question on notice. How do you know it was this person? Did you have a prior contact with them? Recognize their voice? Was there any identification given?

CSI suggested that the pamphlet include examples of reasons why a person might be asking for a longer-term EPO, e.g. homeless and seeking shelter, no transportation, no childcare, and other reasons why a longer EPO is needed. If officer doesn't know the specific situation, this prompts officer to talk to victim-survivor a little bit to find out what barriers would exist to them filling out the DV Packet themselves.

Ria and Marie are looking for examples of coercive control to include in the pamphlet. Will discuss this at the next meeting.

EPO may only be offered when there is probable cause to believe a DV Crime has been committed. If that exists, a DV investigative report is generated, an EPO must be offered, and the case will be presented to either the DA or City Attorney for filing. An EPO can still be requested even if the victim-survivor declines. However, they cannot request an EPO if there is insufficient evidence of a crime and the officer will instead prepare a DV incident report.

There may be confusion between a DV incident and an incident report regarding DV. The Family Code language refers to it as a DV incident, but then later it's clear that it means crime in that context.

Los Angeles County Domestic Violence Council

Committee on Systems Improvement (CSI)



Officers should not be in a position where they are assessing victim-survivor's credibility. They must look at the totality of the circumstances to determine if there is probable cause to believe a crime has been committed, and that includes coercive control.

It is suggested that the officers contact the DART Teams if the officers have questions about EPOs. It was suggested that they add back in the language about explaining that victim-survivors may not realize that an EPO is a type of RO. The language used to describe the EPO is important and it's important to say it's a type of RO. Also, they will add in the Covid-specific rules of court since this is being prepared during the time that they are in effect.

It was suggested that they include sample language that officers can read to victim-survivors regarding EPOs and they will work with us to develop this language. They agreed to attach the referral sheet for RO assistance that is listed on the DVC website.

Requested that they highlight that the suspect doesn't need to be in custody and that the victim's alleged refusal of an EPO could affect their subsequent cases with DCFS. It's much better if the victim asks for the EPO to protect the children.

Trends: Pallavi notes that TROs are again not being entered into the databases if there are omissions or other errors. We will need to start tracking this again.

Julia will reach out to Judge Riff to see whether or not family law courtrooms have a remote audio attendance option yet. If not, when will that be happening? This is important for court accompaniment.

There is an issue with many courtrooms not having a second video screen available, it's only available for the judicial officer to see individuals who are appearing by video.

There is an issue with Van Nuys posting and distributing a flyer requiring that the person who serves the TRO be a citizen. No other occurrences of this were noted. Kate Forrest will reach out to the supervisor of family law in the Van Nuys Courthouse and report back next month.

Amanda reported that the Van Nuys Courthouse is again denying survivors the ability to list "confidential" on their pleadings per FC 3429. Asked Kate Forrest to follow up with the supervisor regarding this.

There is no residence requirement for a RO so the court staff should stop asking survivors for their city of residence for purposes of assigning the case to a particular courthouse. Amanda and LACLJ will be working on this.

The Sheriff is still requiring individuals to go into the courthouse in person, even though the court is accepting electronic signatures. Sheila Keul inquired and got a hard "no." LACLJ served FOIAs on Los Angeles County, the Sheriff's Office and the Courts but has not received a reply back on those FOIAs. Harriet Buhai is working on addressing rejection of pleadings. LARP is considering a statewide fix to this unnecessary barrier.