

**Agenda**  
**Montana Supreme Court Access to Justice Commission**  
**Joint Meeting with Justice Initiatives Committee**  
**September 8, 2017**  
**Large Conference Room, Office of the Court Administrator**  
**301 S. Park, Third Floor, Helena, MT**  
**12:30 – 3:15 PM**

- I. Call to Order and Introductions: Justice Baker (12:30 – 12:35)
  - a. Approval of 6/9/17 meeting minutes: Justice Baker (Tab 1)
- II. Introduction to Joint Meeting with Justice Initiatives Committee: Justice Baker (12:35 – 12:45)
  - a. Review of Committee Assignments (Tab 2)
- III. JIC Update and Upcoming Priorities: Brandi Ries (12:45 – 1:15)
- IV. ATJC Standing Committee Reports:
  - a. Self-Represented Litigants: Ann Goldes-Sheahan and Abby Brown (1:15-1:30)
    - i. Action Item: Fee Waiver Form (Tab 3)
  - b. Law School Partnerships: Debbie Steigerwalt (1:30-1:40) (Tab 4)
  - c. Policy and Resources: Matthew Dale (1:40 – 1:50)
  - d. Communications and Outreach: Melanie Reynolds (1:50 – 1:55)
  - e. Strategic Planning: Niki Zupanic (1:55 – 2:05) (Tab 5)
- V. Orders of Protection Project and JIC Domestic Violence Initiatives: Judge David Carter, Patty Fain, Brandi Ries (2:05 – 2:35) (Tab 6)
- VI. E-RAMP update: Justice McKinnon and Patty Fain (2:35 – 2:50)
- VII. Limited License Legal Technician Update: Georgette Boggio (2:50 – 3:00)
- VIII. Public Comment and Review 2017 and 2018 Meeting Dates (3:00-3:15)
  - a. December 8, 2017
  - b. March 9, 2018
  - c. June 8, 2018
  - d. September 14, 2018
  - e. December 7, 2018

Tab 1

**Montana Supreme Court Access to Justice Commission**  
**June 9, 2017**  
**Large Conference Room, Office of the Court Administrator**  
**301 S. Park, Third Floor, Helena, MT**  
**1:00–3:15 PM**  
**Meeting Minutes**

**Commissioners Present:** Justice Beth Baker, Matthew Dale, Rep. Kim Dudik (by phone), Hon. Kurt Krueger (by phone), Hon. David Carter (by phone), Kyle Nelson, Randy Snyder (by phone), Dean Paul Kirgis (by phone), Georgette Boggio (by phone).

**Commissioners Absent:** Hon. Greg Pinski, Rick Cook, Hon. Winona Tanner, Alison Paul, Ed Bartlett, Aimee Grmoljez, Melanie Reynolds, and Charlie Rehbein.

**Others Present:** Niki Zupanic, April Schmitt, Debra Steigerwalt, Michelle Potts, Sarah McClain, Patty Fain, Nolan Harris, Derrek Shepherd, Brian Coplin, Ann Goldes-Sheahan, and Krista Partridge.

**Call to Order:** 1:02 p.m.

Justice Baker welcomed new Commissioner Kyle Nelson, and asked for comments or corrections to the March meeting minutes. On the first page of the March minutes, the reference to September minutes should be changed to December.

**The March minutes were adopted as corrected with no objections.**

**Self-Represented Litigants Committee Report**

Nolan Harris gave an update on the Pilot Forms Evaluation. He noted that the evaluation results were mixed, but the goal of making the forms easier for litigants to understand and complete was achieved. He added that the judges provided a lot of constructive suggestions and comments and that their feedback is being incorporated into the automated forms. The goal is to complete the revisions before the new class of Justice for Montanans members starts in September. Nolan added that the court clerks will need training on the new forms and that he plans to attend the clerk's conference to get input on the best approach for training.

**Law School Partnerships Committee**

Debra Steigerwalt reported that a Justice for Montanans member will be placed at the Alexander Blewett III School of Law to assist in implementing the new pro bono initiatives. She thanked Alison Paul, Dean Kirgis, and Professors Jordan Gross and Hillary Wandler for making it possible to secure the AmeriCorps placement. Debra added that the Family Law Section of the State Bar contributed funds for the required cost share, and Dean Kirgis stated that he's thrilled for the opportunity and is confident that the remainder of the needed funds will be found. Justice Baker asked for a motion to send a letter on behalf of the Commission thanking the Family Law Section for their contribution.

**Matt Dale moved to approve a thank you letter from the Commission to the Family Law Section and Kyle Nelson seconded the motion. The motion passed without objection.**

Debra stated that Angie Wagenhals from MLSA, Professor Gross, Patty Fain, and other representatives from the law school had a meeting to discuss the duties of the position and that applicant interviews are underway. She also reported that the Incubator Project working group will meet next in September. Nolan asked if there was any progress on getting law students to volunteer at the Missoula Self-Help Law Center. Debra replied that the group will be discussing that issue at the next meeting.

### **Karla Gray Award Selection**

Justice Baker stated that there are three strong candidates for the Karla Gray Award, and that the nomination materials for each candidate were included in the meeting packet for Commissioners to review. Justice Baker asked for comments on the candidates and added that she had received proxy votes from Commissioners who were unable to attend the meeting. Ann Goldes-Sheahan said that nominations are valid for two years and that unsuccessful candidates will be put forward next year. She added that the State Bar decided that two people cannot receive the award in the same year and so the Commission will need to decide on one recipient. Matt Dale moved to nominate Judge Karen Townsend for the Karla Gray Award, and said Alison Paul, who could not be present for the meeting, also supports Judge Townsend. Judge Krueger added his support for Judge Townsend, noting her broad experience and her work with the Self-Help Law Centers as both a judge and an attorney. Rep. Dudik also voiced her support for Judge Townsend citing her record of service and leadership. Justice Baker stated that she received proxy votes for Judge Townsend from Judge Pinski, Aimee Grmoljez, and Ed Bartlett. There were no additional comments or nominations.

**Judge Karen Townsend was selected for the Karla Gray Award by acclamation.**

Justice Baker thanked the Commissioners for their excellent choice and added that all the nominations were very well thought out. Ann Goldes-Sheahan stated that both the Karla Gray and Neil Haight Awards will be presented at the Thursday evening banquet during the State Bar's annual meeting in Fairmont in September.

### **Communications and Outreach Committee Update**

Niki Zupanic reported that the committee plans to reconvene in the Fall and is seeking active members.

### **Legislative Update**

Justice Baker thanked Rep. Dudik and Sen. Swandal for their hard work on HB 46. Even though the legislation ultimately failed on a tie vote in the Senate, Justice Baker applauded the efforts of Rep. Dudik in shepherding the bill through the House. Rep. Dudik said that the legislation is worth pursuing again in the next session, and that significant progress was made in raising awareness of civil legal aid during the 2017 session. She added that we need to keep working between now and 2019 to educate legislators on the issues. Justice Baker stated that the Policy and Resources Committee will focus on the next legislature and that Abby St. Lawrence, who was a great help during the recent session, has agreed to serve on the committee. Justice Baker

stated that a letter from the Commission will be sent to Montana's Congressional delegation in support of federal funding for civil legal aid and asked if any Commissioners had concerns with their name being on the letter. Matt Dale, Kyle Nelson, Georgette Boggio, Dean Kirgis, Judge Krueger, and Judge Carter all stated that they were willing include their names. Justice Baker said that Ed Bartlett, Aimee Grmoljez, and Randy Snyder gave approval for their names to be included, and stated that she will reach out to any other Commissioners who haven't yet given approval. She said that Sen. Daines has expressed an interest in touring the Missoula Self-Help Law Center, and that Sen. Tester has already visited the Billings Self-Help Law Center.

### **Strategic Planning Committee Update**

Randy Snyder stated that the committee was on hold during the legislative session. He said that he will be resigning from the Commission and no longer able to serve on the committee. Randy offered to provide all his materials to the next chair of the committee. Justice Baker said that she was sorry to see Randy go and thanked him for his participation. She asked for volunteers to serve on the committee and for a Commissioner to take over as Chairperson.

### **Limited License Legal Technician Update**

Georgette Boggio reported that the committee had its first meeting on May 22 and the next meeting will take place on July 12. Prior to the July meeting, the group will be studying the Gaps & Barriers report and the State of Washington legislation to get up to speed on the issues. Georgette reported that the group has concerns about the Washington program and requirements and will be looking at other programs for comparison. Patty Fain offered her assistance to the committee and suggested that Judge Carter should also be involved. Justice Baker said that Pat Cotter is the Committee Chair and that members include representatives from the State Bar, Alexander Blewett III School of Law, and the University of Great Falls. The Supreme Court asked for a report in 6 months, but Justice Baker said that the deadline could be extended if necessary. Patty said that she attended a session on limited license legal technicians at the Equal Justice Conference and that a group from Washington reported that their program was struggling because of the training requirements and that there were only 4 technicians licensed in Washington so far. Patty offered to send the Washington group's presentation to the Commission and added that representatives from Washington can attend the July committee meeting.

### **Update on Order of Protection Checklist**

Judge Carter reported that 62 Order of Protection Checklists have been distributed since the start of the pilot program in February in Yellowstone County. Most of the checklists have been provided to petitioners, and most have resulted in contested hearings. He said he has noticed a marked improvement in participation and better understanding of the process. Participants have gathered appropriate evidence such as print-outs of photos and text messages, and the quality of testimony has also improved. Evidence such as 911 calls and other criminal justice information is still lacking and he hopes to develop a way for participants to more easily collect this type of evidence. Other problem areas include litigants who haven't thought about how to deal with living in the same residence and parenting issues when a parenting plan is not in place. Justice Baker asked how the parenting plan issue could be addressed in the checklist, and Judge Carter replied that the checklist could include instructions directing litigants to the District Court to file a request for a parenting plan. Matt Dale asked Judge Carter to send the final version of the checklist to him since the Attorney General's office is responsible for the Order of Protection

template. Judge Carter encouraged use of the checklist in other jurisdictions and he recommended that the next phase should focus on promoting the checklist to courts of limited jurisdiction. Judge Carter and Justice Baker both observed that the Order of Protection process is often the first entry point to the legal system for domestic violence victims and that it's critical to make it as easy as possible for them to take the next step to a parenting plan. Justice Baker noted that the September meeting will be a joint meeting with the Justice Initiatives Committee and that this would be a good joint issue for collaboration. Judge Krueger thanked Judge Carter for his great work on the checklist and added that better coordination between the Justice and District Courts is needed and, since many jurisdictions don't have a Standing Master, pro bono attorney involvement is critical. Debra Steigerwalt asked how the checklists are distributed and whether contact information for domestic violence agencies and advocates is included in the checklist. Judge Carter said that the checklist is distributed when a petition for a Temporary Order of Protection is filed and said that a list of resources was contemplated, but not included so that victims would not be overwhelmed with the volume of paperwork. Nolan Harris asked if the Self-Help Law Centers could distribute checklists and help guide litigants toward a parenting plan.

#### **Update on State Bar of Montana/Law School Mediation Project**

Patty Fain reported that the mediator qualifications have been finalized. She explained that the mediators will be trained to do full triage. An online intake form will be used to weed out domestic violence cases where mediation is not appropriate. She thanked Dean Kirgis and Professor Capulong for their assistance in developing the intake form and asked Commission members to test the online form and provide feedback. Patty noted that there is an opt-out provision at the end of the process and that considerable emphasis had been placed on minimizing the impact of coercive control on the domestic violence victim's decision-making process. Justice Baker noted that the introduction section of the intake form should include information about the right to appeal and Patty agreed that this should be included. Patty asked for Commission approval on the intake form, but because Rep. Dudik had to leave the meeting early, a quorum of Commissioners was no longer present. Justice Baker suggested that the Commission could give tentative approval.

**Matt Dale moved that the Commission tentatively approve the E-RAMP intake form and Justice Baker seconded the motion. The motion passed without opposition.**

#### **National Meeting Reports**

Matt Dale attended a meeting of the Committee on Access to Justice Task Forces at the Equal Justice Conference and gave a presentation on the Montana legislative funding effort, including the public forum series and video. Two other states also presented on their funding efforts. He reported that the session got lots of interest and attendance. Patty Fain added that Hawaii is going to use the Montana effort as a template. Patty reported that this was one of the better Equal Justice Conferences that she has attended and she offered provide access to conference materials for Commission members.

#### **Public Comment and Next Meeting Dates**

Justice Baker asked for public comment. There was no public comment. Justice Baker asked members to attend the September meeting in person if possible since it will be a joint meeting with the Justice Initiatives Committee. The meeting was adjourned at 2:46 p.m.

# Tab 2



## MONTANA ACCESS TO JUSTICE COMMISSION

### STANDING COMMITTEES

August 2017

<b>Self-Represented Litigants</b>	<b>Policy and Resources</b>	<b>Law School Partnerships</b>	<b>Communications and Outreach</b>	<b>Strategic Planning</b>
Ann Goldes-Sheahan, Co-Chair	Matthew Dale, Chair	Debra Steigerwalt, Chair	Melanie Reynolds, Chair	Niki Zupanic, Chair
Abby Brown, Co-Chair	Aimee Grmoljez	Hillary Wandler	Matt Dale	Hon. Beth Baker
Chris Manos	Rep. Kim Dudik	Hon. Russ Fagg	Dan McLean	Melanie Reynolds
Hon. David A. Carter	Ed Bartlett	Patty Fain	Sarah McClain	Alison Paul
Ed Higgins	Andy Huff	Kate Ellis	Niki Zupanic	Charlie Rehbein
Holly Frederickson	Alison Paul	Jessica Walker-Kelleher		Hon. David A. Carter
Kay Lynn Lee	Andrew King-Ries	Diana Garrett		Brian Coplin
Kyle Nelson	Hon. Beth Baker	Shannon Hathaway		Ann Goldes
Nolan Harris	Janice Doggett	Angie Wagenhalls		Shannon Hathaway
Randy Snyder	Michelle Potts	Jessica Fehr		
Hon. Winona Tanner	Jon Bennion	Stefan Kolis		
Rick Cook	Niki Zupanic			

# Tab 3

Name \_\_\_\_\_  
Mailing Address \_\_\_\_\_  
City \_\_\_\_\_ State \_\_\_\_\_ Zip Code \_\_\_\_\_  
Phone Number \_\_\_\_\_  
E-mail Address (optional) \_\_\_\_\_  
**Appearing without a lawyer**

- ☐ MONTANA \_\_\_\_\_ JUDICIAL DISTRICT COURT, \_\_\_\_\_ COUNTY
- ☐ IN THE JUSTICE COURT OF \_\_\_\_\_ COUNTY, STATE OF MONTANA
- ☐ IN THE MUNICIPAL OR CITY COURT OF \_\_\_\_\_, MONTANA

_____ Petitioner / Plaintiff, and _____ Respondent / Defendant.	<b>Case No:</b> _____ (leave blank, the clerk will write in)
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I have a good cause of action or defense but am unable to pay filing or other court fees. I request the court waive the costs and fees. I provide the following information about my income and expenses.

My full legal name is: \_\_\_\_\_ . I was born in this month \_\_\_\_\_ and this year \_\_\_\_\_

☐ I am represented by an entity that provides free legal services to low-income persons.

Or

☐ I am represented by a volunteer/pro bono attorney, and am financially eligible for free legal services. (Attach a certificate of eligibility from legal aid.)

[If you checked either box above, skip to the bottom of this form, and sign it. You don't need to fill out pages 2, 3, and 4.]

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## I. INCOME

Do you receive any of these benefits [check the box for each benefit you receive]?

☐ SNAP ☐ TANF ☐ SSI ☐ Medicaid ☐ WIC ☐ LIEAP

- If you checked a box, skip to the bottom of this form, and sign it. You don't need to fill out the rest of this form.
- If no, then what income do you receive? Fill in the chart below. If you don't receive income from a listed source, put a "0" in the blank for that amount per month.

<b>What do you do for work?</b> _____	<i>If you are married, please list your spouse's income below. If you are separated, or one of you is filing for dissolution of marriage, you do not need to provide your spouse's income. If your spouse doesn't receive income from a listed source, put a "0" in the blank for that amount per month.</i>
<b>Who is your employer?</b> _____	
<b>Are you married?</b> <input type="checkbox"/> Yes <input type="checkbox"/> No	

Income Sources	Gross amount YOU receive per month	Gross amount YOUR SPOUSE receives per month
Employment	\$	\$
Investments	\$	\$
Rental Income	\$	\$
Retirement	\$	\$
Workers Comp	\$	\$
Social Security	\$	\$
Unemployment	\$	\$
Survivor's Benefits	\$	\$
Veteran's benefits	\$	\$
Child support	\$	\$
Pension	\$	\$
A person or agency pays my rent or other monthly expenses	\$	\$
Other income- describe: _____	\$	\$
<b>Total here:</b>	\$	\$

How many persons, if any, depend on you financially? If none, then write "N/A" below.  
 [Attach another page if needed.]

Deleted: children under 19 live with you

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<u>Name</u>	<u>Age</u>	<u>Relationship to You</u>

## II. ASSETS

What property do you own, along with your spouse, if married and not separated and not filing for dissolution? Fill in the chart below, for each item that you could sell for \$600 or more. If you don't own an item listed, write "N/A" in the "Value" column for that item.

Asset	Value*
Cash, savings and checking	\$
Vehicle 1, provide year, make and model: _____	\$
Vehicle 2, provide year, make and model: _____	\$
Home where you live now	\$
Real estate other than home you're living in	\$
Motorcycle /Four wheeler	\$
Snowmobile	\$
Camper/RV	\$
Mobile home <u>(if not the home where you live now)</u>	\$
Guns, collections	\$
Boat/watercraft	\$
Other Item worth more than \$600	\$

\* Value is the amount the item would sell for less the amount you still owe on it, if anything

### III. MONTHLY EXPENSES

What bills do you (and your spouse, if married) actually pay each month? Fill in the chart below. If you don't have a monthly expense that's listed in the chart, write "0" in the amount column for that expense.

Monthly expense:	Amount per Month
Rent / Mortgage	\$
Utilities (all combined)	\$
Phone (cell / landline)	\$
Vehicle Payments (all combined)	\$
Vehicle Insurance (all combined)	\$
Health insurance	\$
Other health costs, such as prescriptions	\$
Other Insurance	\$
Groceries	\$
Credit card payments actually paid	\$
Child support payments actually paid	\$
<u>Spousal support payments actually paid</u>	<u>\$</u>
<u>School-related expenses</u>	<u>\$</u>
<u>Child care</u>	<u>\$</u>
<u>Wages withheld by court order</u>	<u>\$</u>
Internet/Cablevision/Satellite TV (combined)	\$
Gas for vehicle (or other transportation costs, such as bus fare)	\$
Other monthly bills, describe: _____	\$
<b>Total here:</b>	\$

**IV. OTHER INFORMATION -- optional**

If you have additional information that you want the court to consider about your inability to pay court costs, attach another page called "Additional Information." Check here if you attach another page: ☐

**I declare under penalty of perjury and under the laws of the state of Montana that the information in this document is true and correct. I understand that it is a crime to give false information in this document.**

Date: \_\_\_\_\_ City \_\_\_\_\_ State \_\_\_\_\_

Signature: \_\_\_\_\_

**ORDER**

***Warning! Read carefully the section checked below.  
It is a court order.***

☐ Waiver of court costs is **Granted**. Declarant shall proceed without payment of court fees or costs.

☐ Temporary Waiver of court costs is **Granted**. Declarant may file without payment of court fees or costs, but the Court may determine at a later time that the declarant has the ability to pay all fees or costs and will require declarant to do so.

☐ Temporary Waiver of fees is **Granted**. Declarant may file without payment of court fees or costs, but must appear before the Court at \_\_\_\_ a.m/p.m. on the \_\_\_\_ day of \_\_\_\_\_ and show cause why the declarant lacks the ability to pay all fees or costs.

***Warning! If this third box is checked, you must come to court on the date ordered above. If you don't come, the judge will deny your request to waive court costs, and you will have to pay the court costs.***

☐ Waiver of Fees and costs is **Denied**. Waiver is denied based on the following:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Ordered this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Judge Presiding



\_\_\_\_\_  
Name  
\_\_\_\_\_  
Mailing Address  
\_\_\_\_\_  
City State Zip Code  
\_\_\_\_\_  
Phone Number  
\_\_\_\_\_  
E-mail Address *(optional)*  
**Appearing without a lawyer**

- ☐ MONTANA \_\_\_\_\_ JUDICIAL DISTRICT COURT, \_\_\_\_\_ COUNTY
- ☐ IN THE JUSTICE COURT OF \_\_\_\_\_ COUNTY, STATE OF MONTANA
- ☐ IN THE MUNICIPAL OR CITY COURT OF \_\_\_\_\_, MONTANA

_____ Petitioner / Plaintiff, and _____ Respondent / Defendant.	<b>Case No:</b> _____ <i>(leave blank, the clerk will write in)</i>  Statement of Inability to Pay Court Costs or Appeal Bond
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I have a good cause of action or defense but am unable to pay filing or other court fees. I request the court waive the costs and fees. I provide the following information about my income and expenses.

My full legal name is: \_\_\_\_\_. I was born in this month \_\_\_\_\_ and this year \_\_\_\_\_.

☐ I am represented by an entity that provides free legal services to low-income persons.

Or

☐ I am represented by a volunteer/pro bono attorney, and am financially eligible for free legal services. *(Attach a certificate of eligibility from legal aid.)*

*[If you checked either box above, skip to the bottom of this form, and sign it. You don't need to fill out pages 2, 3, and 4.]*

## I. INCOME

Do you receive any of these benefits *[check the box for each benefit you receive]*?

☐ SNAP    ☐ TANF    ☐ SSI    ☐ Medicaid    ☐ WIC    ☐ LIEAP

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<b>Who is your employer?</b> _____		
<b>Are you married?</b> <input type="checkbox"/> Yes <input type="checkbox"/> No		
<b>Income Sources</b>	<b>Gross amount YOU receive per month</b>	<b>Gross amount YOUR SPOUSE receives per month</b>
Employment	\$	\$
Investments	\$	\$
Rental Income	\$	\$
Retirement	\$	\$
Workers Comp	\$	\$
Social Security	\$	\$
Unemployment	\$	\$
Survivor's Benefits	\$	\$
Veteran's benefits	\$	\$
Child support	\$	\$
Pension	\$	\$
A person or agency pays my rent or other monthly expenses	\$	\$
Other income- describe: _____	\$	\$
<b>Total here:</b>	\$	\$

How many persons, if any, depend on you financially? If none, then write "N/A" below.  
*[Attach another page if needed.]*

Name	Age	Relationship to You

## II. ASSETS

What property do you own, along with your spouse, if married and not separated and not filing for dissolution? Fill in the chart below, for each item that you could sell for \$600 or more. If you don't own an item listed, write "N/A" in the "Value" column for that item.

Asset	Value*
Cash, savings and checking	\$
Vehicle 1, provide year, make and model: _____	\$
Vehicle 2, provide year, make and model: _____	\$
Home where you live now	\$
Real estate other than home you're living in	\$
Motorcycle /Four wheeler	\$
Snowmobile	\$
Camper/RV	\$
Mobile home (if not the home where you live now)	\$
Guns, collections	\$
Boat/watercraft	\$
Other Item worth more than \$600	\$

*\* Value is the amount the item would sell for less the amount you still owe on it, if anything*

### III. MONTHLY EXPENSES

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Phone (cell / landline)	\$
Vehicle Payments (all combined)	\$
Vehicle Insurance (all combined)	\$
Health insurance	\$
Other health costs, such as prescriptions	\$
Other Insurance	\$
Groceries	\$
Credit card payments actually paid	\$
Child support payments actually paid	\$
Spousal support payments actually paid	\$
School-related expenses	\$
Child care	\$
Wages withheld by court order	\$
Internet/Cablevision/Satellite TV (combined)	\$
Gas for vehicle (or other transportation costs, such as bus fare)	\$
Other monthly bills, describe: _____	\$
<b>Total here:</b>	\$

#### IV. OTHER INFORMATION -- *optional*

If you have additional information that you want the court to consider about your inability to pay court costs, attach another page called "Additional Information." Check here if you attach another page: ☐

**I declare under penalty of perjury and under the laws of the state of Montana that the information in this document is true and correct. I understand that it is a crime to give false information in this document.**

Date: \_\_\_\_\_ City \_\_\_\_\_ State \_\_\_\_\_

Signature: \_\_\_\_\_

#### ORDER

***Warning! Read carefully the section checked below.  
It is a court order.***

☐ Waiver of court costs is **Granted**. Declarant shall proceed without payment of court fees or costs.

☐ Temporary Waiver of court costs is **Granted**. Declarant may file without payment of court fees or costs, but the Court may determine at a later time that the declarant has the ability to pay all fees or costs and will require declarant to do so.

☐ Temporary Waiver of fees is **Granted**. Declarant may file without payment of court fees or costs, but must appear before the Court at \_\_\_\_ a.m/p.m. on the \_\_\_\_ day of \_\_\_\_\_ and show cause why the declarant lacks the ability to pay all fees or costs.

***Warning! If this third box is checked, you must come to court on the date ordered above. If you don't come, the judge will deny your request to waive court costs, and you will have to pay the court costs.***

☐ Waiver of Fees and costs is **Denied**. Waiver is denied based on the following:

\_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

Ordered this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Judge Presiding

# Tab 4

Law School Partnerships Committee (LSPC)  
September 2017 Report to ATJC  
(Joint Meeting With State Bar Justice Initiatives Committee Scheduled Sept. 8th)

1. Membership and Composition. Randy Synder and Judge Kurt Krueger have resigned from the LSPC concurrently with their resignations from the ATJC. With these resignations, the LSPC has a strong interest in adding ATJC members to the LSPC. LSPC member Shannon Hathaway has agreed to become a member of the new ATJC Strategic Planning Committee to provide LSPC input. The LSPC also has an interest in adding a law student member to the LSPC now that member Stefan Kolis has graduated from law school (Stefan Kolis has agreed to remain on the LSPC). The LSPC is considering whether a membership slot to a law student might be offered as a pro bono opportunity through the new Law School Pro Bono Coordinator. The LSPC looks forward to discussing membership issues at the September 8th ATJC meeting. The current composition of the LSPC is:

Debra Steigerwalt, Chair	<a href="mailto:DSteigerwalt@mt.gov">DSteigerwalt@mt.gov</a>
Prof. Hillary Wandler Alexander Blewett III School of Law	<a href="mailto:hillary.wandler@umontana.edu">hillary.wandler@umontana.edu</a>
Niki Zupanic Montana Justice Foundation	<a href="mailto:nzupanic@mtjustice.org">nzupanic@mtjustice.org</a> also: Crystine Miller ( <a href="mailto:cmiller@mtjustice.org">cmiller@mtjustice.org</a> )
Hon. Russ Fagg	<a href="mailto:RFagg@mt.gov">RFagg@mt.gov</a>
Patty Fain State Court Pro Bono Coordinator	<a href="mailto:PFain@mt.gov">PFain@mt.gov</a>
Kate Ellis State Bar Trustee	<a href="mailto:kate@cplawmt.com">kate@cplawmt.com</a>
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2. Last Meeting. The LSPC held its last teleconference on July 12, 2017 at 10:00 a.m.



3. Projected Next Meeting. The next meeting of the LSPC will be a teleconference on Wednesday, October 11, 2017 at 10:00 a.m.

4. Projects.

a. Law School Pro Bono Coordinator Project (LSPC Members: Debra, Hillary, Patty, Angie, . The Alexander Blewett III School of Law in partnership with MT Legal Services Association has hired AmeriCorps Jane Fisher member to serve as the Law School's pro bono coordinator. The pro bono coordinator will facilitate pro bono among faculty, staff, students, and alumni. Jane, who recently graduated from the University of Michigan, will begin her term of service on September 11, 2017. Professor Gross will supervise Jane during fall semester and Professor Wandler will supervise Jane during the spring semester.

b. Law School Incubator Project - Working Group with MTLA and Montana State Bar. (LSPC Members: Debra, Hillary, Patty, Niki). The Law School Incubator Working Group met on August 22, 2017. During the summer, Professor Wandler and State Bar Executive Director Chris Manos developed a draft curriculum for the incubator project. The draft is currently being circulated for comments among the working group. In addition, Alison Paul of MTLA will be seeking input from attorneys who have opened up practices, including Meri Althausen of Montana Legal Justice (a firm that serves the modest means market in Missoula). Patti Fain has spearhead the initial effort to develop a logo for project. Alison Paul is currently drafting a draft project budget. The next meeting will be sometime in September.

c. Landlord Tenant Subcommittee. (LSPC Members: Shannon (chair), Stefan, Patty, Angie). The Subcommittee anticipates working in conjunction with the new law school coordinator position to develop future projects but it has no current initiatives in progress.

d. Missoula Self-Help Center Subcommittee (LSPC Members: Debra, Hillary, Shannon, and Stefan). The Missoula Self Help Law Center Advisory Board met in June and discussed the parameters for law school pro bono opportunities at the center. Debra has forwarded a summary of the opportunities discussed at the meeting to Professor Gross.

e. End of Life Document Clinic Support at Law School: (LSPC Member: Stefan).

f. Family Law Clinic at Law School: (LSPC Member: Angie). The AmeriCorps Law School Pro Bono Coordinator is expected to coordinate the clinic with respect to students, staff, faculty, and attorney mentors during Academic Year 2017-2018. Montana Legal Services and the Western Montana Bar Association Program are expected to continue to handle client eligibility screening, confirmation, and placement at the clinic during Academic Year 2017-2018.

g. Changes to the Student Practice Rule. Through email this summer, most LSPC committee members indicated that they would like additional guidance from the ATJC with respect to whether to continue to pursue changes with respect to the law school practice rule. There do not appear to be any changes necessary to the rule in connection with LSPC's current projects. At the agenda meeting in preparation for the ATJC September 8th meeting, there was a consensus that additional input with respect to changes in the rule should be sought from the State Bar Justice Initiatives Committee during the joint ATJC/JIC meeting on September 8th.

# Tab 5

## ATJC Strategic Planning Committee

August 30, 2017

### Meeting Minutes

In attendance: Niki Zupanic, Beth Baker, Judge Carter, Melanie Reynolds

Absent/Excused: Ann Goldes, Alison Paul, Shannon Hathaway, Charlie Rehbein

Niki called the meeting to order at 3:05 pm.

### Introductions

Committee members introduced themselves and shared initial thoughts on what they hoped the committee would accomplish during this strategic planning process. Members shared that this process is an opportunity to refocus after the last legislative session and for the ATJC revisit its mission and what it sets out to do. A revised strategic plan can lead to the ATJC tackling new tasks and building a list of accomplishments to take to the legislature. A revised strategic plan can also be excellent communications tool.

### Brief review of 2013 process and report

Justice Baker shared history of the 2013 strategic planning process, noting it was a good start for the newly formed commission, but the final report is unwieldy. We now need a more focused document, one where we can go back and check our progress. Melanie noted that many organizations use strategic plans to create dashboards of various items to measure progress. Randy Snyder prepared three summaries of the previous process and work done to date, which are good resources that Niki will share.

### Goals for Committee

The committee members discussed goals for the committee's work. Members

want to create a blueprint for the ATJC's work, with refreshed focus areas. Judge Carter also expressed a desire to create a tool for evaluating new projects and identifying the threshold conditions that should be in place before the ATJC commits to a new project (such as the available time and resources compared to the project's need and benefit).

#### Options for Committee Work Plan

Committee members discussed the draft work plan from Niki. Melanie asked that we include a SWOT analysis (strengths, weaknesses, opportunities, and threats) and look at the current landscape. Melanie has several tools for performing that analysis that she will share with Niki, and we can survey the full commission for its input in that analysis before we begin the rest of the process. Members also want to review the ATJC mission as part of the focus areas review. Members expressed concerns about the commission's mission being too broad, and that it would be important to decide if we want an in-depth focus on just a few areas. Judge Carter noted that accomplishing one goal at a time, and prioritizing items so we can do them well, can lead to greater success and momentum. He also noted that it is impossible for the commission to be all things to all people, and we will need to make tough choices, then give the full commission options for its final vote. He recommended picking a few projects, doing them well, and then going back to the second tier group of projects. Justice Baker noted the importance of keeping committee members engaged in the very beginning so we don't have to retool and repeat discussions as we go along and folks drop in. Niki will divide our list of tasks among the scheduled committee meetings, so committee members will know what we're covering each month.

#### Set tentative schedule of meetings

The committee reviewed Niki's suggested schedule of holding four committee meetings: one each in October, November, January, and February. The committee would then report to the commission at its March meeting. The committee tentatively scheduled our meetings for the last Wednesday of each of those months. Justice Baker noted reporting to the commission in March is a good goal, as the commission has been putting this process on hold for quite some time.

Set agenda for next meeting

Our next meeting agenda will include the SWOT analysis, review the current landscape, and review the commission's mission and focus areas.

Review what resources committee members need before then

Melanie will share the SWOT analysis tools (Melanie), Niki will create calendar appointments for our four meetings, Niki will circulate Randy's summaries, and Justice Baker will circulate the previous survey that was sent to the commission. Niki will have the committee review the new survey to be sent out to the commission.

Niki adjourned the meeting at 3:53 pm.

# Tab 6

# Integrating Procedural Justice in Domestic Violence Cases

**A Practice Guide**

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# Introduction

## WHAT IS THE CENTER FOR COURT INNOVATION?

The winner of numerous national prizes for innovation, including awards from the Drucker Institute, National Criminal Justice Association, American Bar Association, National Association for Court Management, Ford Foundation, and Harvard University, the Center for Court Innovation has grown over the past 20 years into an international leader in the field of justice reform.

The Center seeks to help create a more effective and humane justice system by designing and implementing operating programs, performing original research, and providing reformers around the world with the tools they need to launch new strategies. The Center accomplishes its goals in three primary ways:

**Learning by Doing.** The Center conceives, plans, and operates programs that test new ideas and solve difficult problems. In so doing, the Center wrestles with thorny planning and implementation challenges. This experience grounds the organization in the realities of how difficult it is to alter the behavior of individuals, communities, and government bureaucracies.

**Advancing Knowledge.** The Center conducts rigorous and independent research, documenting what works and what does not. Researchers also provide regular feedback on the results of the Center's own operating programs. In addition to performing original research, we disseminate new ideas about justice reform through books, essays, videos, podcasts, social media, and other vehicles.

**Helping Reformers.** The Center provides training and assistance to justice reformers inside and outside of government, both domestically and internationally. This includes a commitment to advance reform in the United Kingdom with the help of our spin-off agency, the Centre for Justice Innovation. Experts from the Center help innovators plan and implement new policies, practices, and technologies.

**For more information about the Center, visit [www.courtinnovation.org](http://www.courtinnovation.org) or e-mail [dvinfo@courtinnovation.org](mailto:dvinfo@courtinnovation.org).**

## WHAT IS THE PURPOSE OF THIS PRACTICE GUIDE?

This Practice Guide is designed to help courts and domestic violence stakeholders assess their current practices and integrate new strategies to enhance procedural justice. The materials in this guide are based upon promising practices identified through both the Center for Court Innovation's operating projects and national training and technical assistance.

# Procedural Justice: What is it?

## WHAT IS PROCEDURAL JUSTICE?

Procedural justice refers to the perceived fairness of justice procedures and interpersonal treatment of victims/petitioners and defendants/respondents. Research shows that people are more likely to perceive the justice system as fair when the following elements are present:

**Voice.** Litigants have an opportunity to be heard.

**Respect.** Litigants are treated with dignity and respect by judges, attorneys, and court staff.

**Neutrality.** Litigants perceive that the decision-making process is unbiased and trustworthy.

**Understanding.** Litigants understand the case outcome, their rights, and what is expected of them in order to comply with court orders.

**Helpfulness.** Litigants perceive that court actors have an interest in their needs and their personal situation.

## WHY SHOULD WE CARE ABOUT PERCEPTIONS OF FAIRNESS?

Research conducted in a range of settings—such as criminal, family, and small claims courts—has found that:

- **The court experience is more influential than the actual case outcome.** In contrast to *distributive justice*, which refers to the case outcome (i.e., whether a litigant “won” or “lost” the case), procedural justice can actually have a greater influence on litigants’ views of their court experience.<sup>1</sup>
- **Procedural justice can increase compliance with court orders, improve public trust, and reduce recidivism.** Litigants who believe the court process is fair are more likely to comply with court orders, to perceive the courts as legitimate, and to engage in future law-abiding behavior.<sup>2</sup>
- **All courtroom actors can have an impact on perceptions of fairness.** The treatment of litigants by all court actors—including security staff, clerks, bench officers, defense attorneys, prosecutors, and the judge—contributes to the overall perception of fairness.<sup>3</sup>

## WHY IS IT IMPORTANT IN DOMESTIC VIOLENCE CASES?

Procedural justice has been tested across courts and case types and is critical in matters involving domestic violence for the following reasons:

**Enhancing Victim Safety.** Given the risk of future violence and lethality for victims of domestic violence, it is crucial that victims seek safety for themselves and their children. If the courts are perceived as legitimate and trustworthy, victims are more likely to access help and request protective orders.

**Reducing Trauma.** The court experience can be anxiety-provoking for anyone, but victims of domestic violence, in particular, experience high rates of trauma and can be easily triggered by disrespectful court staff or feelings of hopelessness over case outcomes. Trauma can also impact a litigant's understanding of the court process. Efforts to improve perceptions of fairness may reduce anxiety and the risk of re-traumatization.

**Aiding Self-Represented Litigants.** Many domestic violence litigants are self-represented and lack sufficient understanding of the court process, how to present their case, or what information is admissible. It is not uncommon for those without counsel to leave court without understanding the conditions of a court order, what is expected of them, or how to access resources. By focusing on increased understanding, self-represented litigants may be better equipped to represent themselves.

**Promoting Accountability.** There is an emphasis on accountability in domestic violence cases to help protect victims and encourage compliance with orders of protection. As an evidence-based practice, procedural justice has been shown to increase compliance and reduce offending with a range of defendants, including those charged with violent felonies.

# How Do We Incorporate Procedural Justice in Domestic Violence Cases?

There are many simple, no-cost reforms that court and community stakeholders can implement to enhance perceptions of fairness throughout the courthouse environment. The following practical tips are connected to the domains of helpfulness, respect, understanding, neutrality, and voice. This is not an exhaustive list of practices; rather, it is a snapshot of strategies and interactions that infuse procedural justice throughout the case process. Each section offers practical tips, case examples, and resources to help domestic violence courts, court administrators, judges, and other stakeholders improve the overall experience for litigants.

## PROMOTING HELPFULNESS

Domestic violence litigants access the courts in a variety of ways. Some may go online to learn more about filing an order of protection; others may enter the courthouse as a criminal court defendant. Regardless of case type, an individual's overall experience is based on the perceived accessibility and helpfulness of the court and information provided. If the experience of trying to gain a protective order is intimidating or confusing, a victim may be reluctant to take the necessary steps to protect her safety. If a litigant does not know how to get to court or where to go in the courthouse, they may become frustrated and miss their court appearance.

How does the public learn about local courts, access information, and navigate the courthouse? Is the available information perceived as helpful?

**Here are some practical tips to promote helpfulness:**

- 1. Engage the community.** Conduct outreach to community-based organizations and service providers to broker partnerships to inform the public about how the court works and establish linkages for litigants in need of services. Outreach should include multicultural community centers to help build trust among underserved populations and foreign-born individuals

### BUILDING TRUST

Through the Family Court Enhancement Project, the Hennepin County (Minnesota) Family Court engaged Native partners to help build trust and improve the reporting of domestic violence incidents. Specifically, Family Court staff conducted outreach to the Native community to introduce themselves, provide information about Family Court, answer questions, and invite people to utilize the services provided through Family Court.

who, depending on their country of origin, may mistrust the courts or other government institutions. Create easy-to-read flyers or FAQ sheets that outline the availability of online forms and help litigants understand what will happen during their court proceeding. These FAQ sheets should be written at a 6th grade reading level or below, accessible in the region's common languages, and be added to the court's website.

**2. Enhance the court website's accessibility.**

Assess the court's website and ensure that essential information is easy to find, up-to-date, and comprehensible for court users. Important forms should be available online and in multiple languages to help individuals come to court prepared.

## TRANSLATING DOCUMENTS

Title VI of the Civil Rights Act of 1964 requires meaningful access to justice for limited English proficient litigants. In response, many jurisdictions have translated court forms into the most prominent languages spoken in their communities to help reduce barriers and improve language access. For example, translations should be done by official and validated language services to avoid any errors that could lead to inaccurate responses by litigants and compromise a domestic violence case.

New York State has forms in Spanish, Haitian Creole, Bengali, Chinese, Korean, and Russian available online.

**3. Maintain the courthouse appearance.** To make courthouses more inviting and respectful, review the building conditions and work to improve cleanliness and address signs of neglect, such as graffiti. Keep the courthouse facilities well maintained. Welcome signs and other neutral décor can contribute to a welcoming atmosphere.



**4. Provide a safe place for victims.** Ensure that there is a waiting area where domestic violence victims feel safe. Victims should not be expected to wait near accused abusers, and special precautions should be made to ensure that children are not caught between parents appearing in court. This sends a message that the court is concerned about victims' safety and interested in their well-being.

## IMPROVING SAFETY

Supervised visitation centers across the country specifically consider the safety needs of adult victims and children while designing their space and policies. Many, like Nia's Place in Atlanta, separate victims and offenders in distinct waiting rooms and use staggered arrival and departure times to keep victims safe and avoid exposing children to conflict.

**5. Create a child-friendly environment.** To be helpful to litigants without childcare, establish children's waiting rooms and/or childcare facilities where parents can leave their children in a safe environment while they attend to their case. Improve court waiting areas with brightly colored paint and child-friendly decorations, and offer games, toys, and children's books. Make accommodations for children inside the courtroom by offering books, snacks, or quiet toys. The availability of these facilities should be publicized through the court's website or other outreach efforts.

## ACCOMODATING CHILDREN

At the Bergen County Courthouse (New Jersey) domestic violence victims have a designated waiting room to help them feel safe and secure while waiting for their case to be called. The waiting room offers information on social services and volunteers from a local advocacy organization are present to add a protective presence. The courthouse also has a Children's Court Care Center in which litigants can leave their children in a supervised play area while they attend court proceedings.

**6. Make signage clear and accessible.**

Assess courthouse signage for comprehensibility and accuracy. Signs should be easy-to-read, written in plain language, and posted at eye level. Ensure that accessible entrances and elevators are clearly marked. Create Americans with Disabilities Act-compliant versions of oral and written instructions for the visually and hearing impaired. Use courteous terms and limit the use of all capital letters. For example, consider the difference between, "Please turn off your cell phone," versus "NO CELL PHONES."

## CLARIFYING SIGNAGE

### COURTROOM RULES



Please help us keep the courtroom quiet.  
No talking while court is in session.



Please turn off all cell phones in the courtroom.



Please remove all hats and headwear.



Please do not eat or drink in the courtroom.  
Eating is allowed in the hallway. There is a water fountain in the middle of the hallway.

**Thank you for your cooperation.**

## DEMONSTRATING RESPECT

All court stakeholders—from court security to clerks, attorneys, and judges—can impact litigants' perceptions of fairness. If security staff are curt or rude, litigants may feel re-victimized and disrespected. If their questions are dismissed, litigants may not seek help, information, or clarification. Self-represented domestic violence victims may also feel inhibited from asking crucial questions to present their cases efficiently, which might result in a dismissed case against their abuser.

In general, how does court staff communicate with the public? Is that communication respectful?

**Here are some practical tips to promote respectful interactions:**

### 1. Train all court staff on procedural justice.

Trainings should be multidisciplinary and attended by all applicable stakeholders including the judge, clerks, court officers and security, defense, prosecution, probation, and child welfare to improve the overall courthouse culture. Customized trainings should also be offered with a focus on self-represented litigants and how to provide legal information without offering advice or compromising neutrality. Tip sheets and regular lunch meetings can also be used to reinforce the importance of respectful interactions.

### 2. Conduct respectful security screenings.

Ensure that all security measures, such as going through metal detectors, are conducted with respect. Court officers should avoid all joking and speak respectfully to litigants. Court officers should be encouraged to be helpful and direct litigants to where they need to go, including onsite services.

### 3. Engage in effective communication.

All court staff should demonstrate effective communication skills by introducing themselves, making eye contact, and avoiding multitasking (such as looking down at a cell phone, computer screen, or paperwork) while speaking to litigants. Explain any necessary multitasking to ensure transparency.

### 4. Start on time.

Court sessions should start on time to demonstrate respect for litigants' time. If there is a delay, court staff should explain the reason for the late start and let litigants know when they can expect court to begin.

### 5. Introduce yourself and greet litigants.

Judges should begin court proceedings by saying "good morning," apologize if starting late, introduce themselves, and make eye contact with litigants and other audience members. During each proceeding, judges should greet litigants by name and make eye contact when speaking and listening. Keep in mind that some litigants may not be comfortable making eye contact because of cultural differences, feelings of shame, or past trauma, so judges should avoid requesting that a litigant look at him/her during the proceeding.



## ENSURING UNDERSTANDING

Because of the fast pace, intimidating setting, and use of legal jargon in courtrooms, most domestic violence litigants find the court process hard to follow. Language barriers can exacerbate confusion. Many domestic violence victims, especially those without counsel, are likely to feel anxious about their case but reluctant to ask questions. Many victims enter a courtroom without a domestic violence advocate or sufficient knowledge to present their case, and leave court without understanding the outcome of their case. If the judge only delivers a written argument and does not take the time to provide a verbal explanation of judicial decisions, litigants may experience heightened confusion and anxiety.

What steps can courts take to ensure that litigants receive the information they need to understand and complete their cases?

Here are some practical tips to ensure understanding:

1. **Create a self-help center.** Offer information desks and self-help centers within the courthouse or on the court's website that provide a range of information for victims and self-represented litigants including brochures, tip sheets, videos, and guides on court proceedings and available resources. Specific information for domestic violence victims on certain protections and resources should also be available. Ensure that forms are easy-to-read, written at or below a 6th grade reading level, and available in the jurisdiction's major languages. Courts should also develop protocols to communicate information to people who cannot read.

### CREATING A SELF-HELP CENTER

Winnebago County (Illinois) offers a web-based legal self-help center to help litigants without legal representation obtain legal information on topics such as filing an order of protection for domestic violence, a stalking no contact order, child support, or guardianship of a child. The site offers FAQs, forms, clear instructions, legal resources, a live chat feature, and invites users to leave feedback.

2. **Use plain language.** Minimize the use of legal jargon and acronyms so that litigants understand the conversation. Ensure that interpretation services are provided for litigants with limited English proficiency.

**3. Offer legal assistance and victim advocacy.**

Offer targeted legal assistance and victim advocacy at low or no cost by using people with legal training (attorneys, paralegals, and law students) to help litigants read instructions and fill out forms. Consider unbundling attorney services—making attorneys available for discrete tasks rather than an entire case—to maximize attorney resources. Non-attorney advocates should not offer legal advice; rather, they can provide information and help with navigating the court process.

## PROVIDING A NAVIGATOR

Multnomah County Circuit Court (Oregon) employs a staff member to serve as a court navigator to identify self-represented litigants experiencing domestic violence, refer them to additional services and resources, and provide information about the court process and family law forms in order to mitigate confusion. In addition, the New York Client Assistance Program offers *pro bono* civil and legal advocacy for individuals with disabilities and the Victim Assistance Program in Ada County, Minnesota, provides counseling, support, transportation, and accompaniment to all court proceedings.

**4. Provide resources to self-represented litigants.**

Use videos, information cards, or navigators to inform self-represented litigants about court rules, procedures, and resources before and after their cases are heard without advising them about how to present their case. Use plain language and ensure that interpretation services are provided for litigants with limited English proficiency. Consider ways to reorganize dockets to allow more time for self-represented litigants to present their cases.

## EDUCATING WITH VIDEOS

In Maryland, the court system offers a series of self-help videos to help litigants understand complex legal principles and procedures, such as expungement, mediation, self-representation, and filing and defending a small claim.

**5. Explain judicial decisions.** Judges should explain, in plain language, how decisions are made and provide information on what is expected of litigants, including conditions of court orders and how to complete or obtain any necessary forms. Take a short recess if litigants seem unsure or confused. If cases are dismissed, judges should take the time to explain the reasons why. Ideally, decisions will be provided both in writing and verbally. If outlining a sentence on a criminal case, describe the benefits of compliance and the consequences of non-compliance.

## EXPLAINING DECISIONS

Research demonstrates that offenders are more likely to accept and follow protective orders if they experience the elements of procedural justice during a domestic violence case.

In Minnesota's Family Court Fairness Study, for instance, it was found that litigants who received a full explanation from the judicial officer and reported fair treatment were more likely to comply with court orders, even if the case outcome was unfavorable.

## CONVEYING NEUTRALITY

Domestic violence cases are complex and emotional, and it is not uncommon for litigants to perceive the court process as biased or unfair. If a litigant is waiting all morning for their case to be heard, they may take it personally and believe there is favoritism towards those called before them. Even basic court procedures and interactions between judges and court staff, such as sidebar conversations or joking during a bench conference, may be misinterpreted by litigants. What's more, court staff may not be aware of their own implicit biases and how this might be projected during court proceedings.

How can courts convey neutrality during proceedings?

**Here are some practical tips to convey neutrality:**

- 1. Train all court staff on implicit bias.** Judges and court staff should attend trainings to enhance their cultural responsiveness and awareness of implicit bias. Discuss these new skills during performance reviews so that court staff can receive feedback on their interactions with litigants.
- 2. Explain the court process.** The court can reduce the risk of perceived bias by explaining, in plain language, the order in which cases are called and the process by which decisions are made.
- 3. Address all parties neutrally.** Judges should address all parties neutrally by using their name and making eye contact. They should ask informal questions and explain the needed information in ways that work for those with and without counsel. Judges should treat all lawyers respectfully and avoid joking with either party, which might be misinterpreted by litigants.
- 4. Explain the use of bench conferences.** Bench conferences or sidebars are often used to protect sensitive or confidential information but can easily be misinterpreted by litigants. Judges should explain the purpose of the sidebar and encourage lawyers to summarize the conversation for their client afterwards.

## GIVING VOICE

In many courtrooms, domestic violence litigants are not given an opportunity to have their voices heard—whether to present their case as a self-represented litigant, ask questions about their case as a defendant, or give feedback on their overall court experience. Some litigants feel too overwhelmed by the court process to clearly express themselves. Others may be willing to share their experience, but are never given the opportunity. When domestic violence litigants are invited to share their perspective, they are more likely to accept the court’s decision and follow-up with assistance that is offered. Giving “voice” can take many forms (many of which have been listed above), such as giving litigants the opportunity to fully explain their position, or to provide feedback through a survey or comment box.

What opportunities exist for litigants to express themselves in court, present their side of a case, and report on their court experience?

Here are some practical tips to give litigants a voice:

1. **Ask questions.** Ask open-ended questions, whether directly or through an attorney, to give litigants an opportunity to tell their side of the story and to ensure they understand what is happening. Use questions that invite more than a simple “yes” or “no” response.

### CRIMINAL COURT EXAMPLE

A judge presiding over a criminal domestic violence matter may say to the defendant, “Mr. Smith, I am signing an order of protection and you are being instructed to have no contact with Mrs. Smith until your next court appearance in 30 days. If you attempt to contact her, you will be arrested and face felony charges for violating the order of protection. It is important to me that you understand what is expected of you. What questions do you have for me?”

### CIVIL COURT EXAMPLE

A judge presiding over a civil case may say to the victim, “Mrs. Smith, I am issuing an order of protection on your behalf which provides that Mr. Smith should have no contact with you until the next court appearance in 30 days. If Mr. Smith attempts to contact you, you can call the police and they should arrest him or you can come back to court and file a violation petition and ask for additional relief. Do you understand your rights under this order? It is important to me that you understand how you can enforce this order. What questions do you have for me?”

- 2. Elicit feedback from litigants.** Provide opportunities for litigants to comment on their experiences and provide feedback through comment boxes in the courthouse and on the court website. At the end of court proceedings or when they are exiting the building, invite litigants to leave comments or complete a survey on their court experience. Comments should be reviewed on a regular basis and used to inform staff trainings, individual performance reviews, and new policies.

## SURVEYING LITIGANTS

As part of their Family Court Enhancement Project, the Multnomah County (Oregon) Circuit Court conducted a survey to better understand litigants' experiences in family court. The one-page survey inquired about why the respondent was at the court and examined the basic tenets of procedural fairness. Based on the results, the court offered training and placed an emphasis on procedural justice with all court stakeholders.

# Resources

There are many useful resources to help courts and domestic violence stakeholders incorporate elements of procedural justice, such as:

- The Center for Court Innovation offers materials and training and technical assistance at: <http://www.courtinnovation.org/topic/procedural-justice> and training videos at: [www.goo.gl/Z8MAbz](http://www.goo.gl/Z8MAbz). For more information or to request sample scripts for judges, contact the Center for Court Innovation's domestic violence team at: [dvinfos@courtinnovation.org](mailto:dvinfos@courtinnovation.org).
- Procedural Fairness for Judges and Courts is a web-based clearinghouse for information on procedural fairness research and best practices: <http://www.proceduralfairness.org>.
- The National Center for State Courts created CourTools, which offers tools to help courts measure their accessibility and fairness: <http://www.courtools.org/Trial-Court-Performance-Measures.aspx>.

# Endnotes

1. Tyler, T.R. and Huo, Y.J. (2002). *Trust in the Law: Encouraging Public Cooperation with the Police and Courts*. New York, NY: Russell-Sage Foundation.
2. Rossman, S.B., Roman, K.K., Zweig, J.M., Rempel, M., and Lindquist, C.H. *The Multi-Site Adult Drug Court Evaluation*. Washington, DC: The Urban Institute; Lee, C.G., Cheesman, F., Rottman, D., Swaner, R., Lambson, S.H., Rempel, M., Curtis, R. (2013). *A Comprehensive Evaluation of the Red Hook Community Justice Center: A Community Court Grows in Brooklyn*. Williamsburg, VA: National Center for State Courts; Tyler and Huo (2002).
3. Frazer, M.S. (2006). *The Impact of the Community Court Model on Defendant Perceptions of Fairness: A Case Study at the Red Hook Community Justice Center*. New York, NY: Center for Court Innovation; Picard-Fritzsche, S. (2011). *Litigant Perspectives in an Integrated Domestic Violence Court: The Case of Yonkers, New York*. New York, NY: Center for Court Innovation.

# Appendices

## **A. PROCEDURAL JUSTICE SELF-ASSESSMENT**

## **B. PRACTICE TIPS FOR SELF-REPRESENTED LITIGANTS**

## **C. PRACTICE TIPS FOR LITIGANTS WITH LIMITED ENGLISH PROFICIENCY**



## APPENDIX A:

### PROCEDURAL JUSTICE SELF-ASSESSMENT

A self-assessment provides an opportunity for courts and community stakeholders to take inventory of current practices and identify areas that may need improvement. This self-assessment, in particular, is designed for courts and stakeholders handling domestic violence cases—including criminal, family, and civil matters—to help assess the elements of procedural justice. The tool is divided into sections that correspond to the domains of procedural justice as outlined in the practice guide. It can be administered by individual local court personnel, or be led by a statewide agency, such as the Administrative Office of the Courts. Responses can be used to inform the development of new policies and procedural justice initiatives.

PROMOTING HELPFULNESS					
	Yes, Fully In Place	In Progress	Needs Improvement	Don't Know	N/A
We conduct outreach to community centers to inform the public about the courts. Outreach targets LEP and underserved populations.					
Our court's website is updated, clear, and includes important forms. Information is available in multiple languages.					
The courthouse appears inviting and clean.					
There is a safe waiting area for domestic violence victims.					
The court has special facilities for children.					
Entrances and elevators are accessible for individuals with disabilities.					
Signage is accurate and clear.					
The court communicates to users about available resources.					

What goals or milestones will you meet in the next 6-12 months for items that are indicated as a work in progress or that need improvement?

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DEMONSTRATING RESPECT					
	Yes, Fully In Place	In Progress	Needs Improvement	Don't Know	N/A
Judges and court staff are trained on procedural justice.					
Procedural justice is reinforced during staff meetings and performance reviews.					
Security screenings are conducted with respect.					
Court staff are trained in and demonstrate effective communication.					
Court begins on time and bench officers explain what will happen procedurally at the beginning of each court session.					
Judges introduce themselves and make eye contact with litigants.					
Signage is accurate and clear.					
The court communicates to users about available resources.					

What goals or milestones will you meet in the next 6-12 months for items that are indicated as a work in progress or that need improvement?

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<b>ENSURING UNDERSTANDING</b>					
	<b>Yes, Fully In Place</b>	<b>In Progress</b>	<b>Needs Improvement</b>	<b>Don't Know</b>	<b>N/A</b>
The court provides information desks or factsheets that are written in plain language and available in multiple languages.					
The court offers legal assistance at low or no cost to litigants.					
Self-represented litigants are informed of court rules, procedures, and resources.					
Key information is conveyed in plain language without the use of legal jargon and acronyms.					
Interpretation services are available for litigants with limited English proficiency.					
Judges and court staff clearly explain the court's decision and what is expected of litigants going forward.					

What goals or milestones will you meet in the next 6-12 months for items that are indicated as a work in progress or that need improvement?

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<b>CONVEYING NEUTRALITY</b>					
	<b>Yes, Fully In Place</b>	<b>In Progress</b>	<b>Needs Improvement</b>	<b>Don't Know</b>	<b>N/A</b>
Court staff receive training on implicit bias.					
Judges and court staff explain the court process, including how cases are called and decisions are made.					
Judges avoid showing preferences towards either party.					
Judges treat all lawyers respectfully.					
Judges explain the purpose of bench conferences.					

What goals or milestones will you meet in the next 6-12 months for items that are indicated as a work in progress or that need improvement?

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<b>GIVING VOICE</b>					
	<b>Yes, Fully In Place</b>	<b>In Progress</b>	<b>Needs Improvement</b>	<b>Don't Know</b>	<b>N/A</b>
Litigants are encouraged to ask questions.					
Litigants are given an opportunity to tell their side of the story.					
Court staff are trained to ask open-ended questions.					
The court provides user-friendly mechanisms to elicit feedback from litigants, either through the court website or in the courthouse (comment boxes, surveys).					
Litigant feedback is reviewed regularly and used to shape new policies.					
Interpretation services are available for litigants with limited English proficiency.					
The court communicates to users about available resources.					

What goals or milestones will you meet in the next 6-12 months for items that are indicated as a work in progress or that need improvement?

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## APPENDIX B:

### PRACTICE TIPS FOR SELF-REPRESENTED LITIGANTS

Many domestic violence litigants are self-represented and lack sufficient understanding of the court process, how to present their case, or what information is admissible. It is not uncommon for those without counsel to leave court without understanding the conditions of a court order, what is expected of them, or how to access resources. **The following tips will help promote procedural justice and improve case outcomes for self-represented litigants:**

- Assess the court’s website and ensure that essential information is easy to find, up-to-date, and comprehensible for court users. Important forms should be available online and available in multiple languages to help individuals come to court prepared.
- Train all court staff on procedural justice and self-represented litigants and how to provide legal information without offering advice or compromising neutrality.
- Offer information desks and self-help centers within the courthouse or on the court’s website that provide a range of information for victims and self-represented litigants including brochures, tip sheets, videos, and guides on court rules, proceedings and available resources. Specific information for domestic violence victims on certain protections and resources should also be available. Ensure that forms are easy-to-read and available in the jurisdiction’s major languages.
- Offer targeted legal assistance and victim advocacy at low or no cost by using people with legal training (attorneys, paralegals, and law students) to help litigants read instructions and fill out forms. Consider unbundling attorney services – making attorneys available for discrete tasks rather than an entire case – to maximize attorney resources.
- Judges should address all parties neutrally by using their name and making eye contact. They should ask informal questions and clearly explain the reasons why information is needed.
- Use plain language and minimize legal jargon and acronyms so that litigants understand the conversation. Ensure that interpretation services are provided for litigants with limited English proficiency.
- Judges should explain, in plain language, how decisions are made and provide information on what is expected of litigants, including conditions of court orders and how to complete or obtain any necessary forms. Take a short recess if litigants seem unsure or confused. If cases are dismissed, judges should take the time to explain the reasons why. Ideally, decisions will be provided both in writing and verbally.
- Ask open-ended questions, whether directly or through an attorney, to give litigants an opportunity to tell their side of the story and to ensure they understand what is happening. Use questions that invite more than a simple “yes” or “no” response.

## APPENDIX C:

### PRACTICE TIPS FOR LITIGANTS WITH LIMITED ENGLISH PROFICIENCY

The court experience can seem confusing and daunting for anyone, and language barriers only exacerbate confusion and feelings of mistrust. **The following tips will help promote procedural justice and improve case outcomes for domestic violence litigants with limited English proficiency:**

- Conduct outreach to community-based multicultural community centers to help build trust among underserved populations and foreign-born individuals who, depending on their country of origin, may mistrust the courts or other government institutions. Create easy-to-read flyers or FAQ sheets that help litigants understand what will happen during their court proceeding. These FAQ sheets should be accessible in the region's common languages.
- Assess the court's website and ensure that essential information and forms are available in multiple languages.
- Assess courthouse signage for comprehensibility, accuracy, and linguistic responsiveness. Signs should be easy-to-read, posted at eye level, and include multiple languages.
- Train all court staff on procedural justice and cultural responsiveness. Trainings should be attended by all applicable stakeholders including the judge, clerks, court officers and security, defense, prosecution, probation, and child welfare to improve the overall courthouse culture.
- Broker partnerships with culturally and linguistically-responsive community-based organizations and invite them to participate in stakeholder meetings. During these meetings, partner organizations can advise court stakeholders on minority cultures in the community, appropriate interactions, and ways to acknowledge diversity in the courthouse. Linkages should be established to help connect litigants to appropriate services.
- Offer information desks and self-help centers within the courthouse or on the court's website that provide a range of information for victims in the jurisdiction's major languages. This includes brochures, tip sheets, and informational videos.
- Use plain language and minimize legal jargon and acronyms so that litigants understand the conversation. Ensure that interpretation services are provided during all court proceedings for litigants with limited English proficiency.
- Ensure that all interpreters have received training on procedural justice, domestic violence, and available resources.

