Protective Order Committee
Judicial Conference of Indiana

Minutes
January 28, 2005

The Protective Order Committee met at the Indiana Judicial Center on Friday, January 28, 2004 from 12:00 noon – 3:00 p.m.

1. Members present. Tammy Baitz, George E. Brown, Linda E. Brown, John W. Forcum, John W. Hammel, J. Douglas Knight, Robert E. Lybrook, Jerry L. Ummel, and Thomas H. Busch, Chair

2. Staff present. Jeffrey Bercovitz and Tom Jones provided the committee with staff assistance.

3. Guests present. Barbara Collins, Marion County Prosecutor's Office and Ron Miller, Director, Trial Court Management, Division of State Court Administration were also present.

4. Minutes. The minutes for October 22, 2004 were approved.

5. Survey of Best Practices for Protection Orders. Jeff Bercovitz distributed the results from the survey of judges of best practices for protection orders to the committee members. He said 108 judges and magistrates responded. The committee reviewed this information.
b. Committee members agreed to prepare suggestions for best practices to be included in the Protection Order Deskbook in the following areas:

Sample notices, cards and pamphlets	Ques. 7 & 8b.	Judge Knight
Issuance of Ex Parte Order, then transfer	Ques. 13 & 15	Judge Busch
Procedures for weapons, visitation, possession of residence and personal property	Ques. 16	Judge Hammel
Delivery of Protection Order to Sheriff for service	Ques. 17 & 18	Magis. Lybrook
General comments on Protection Orders	Ques. 30, 31 & 32	Judge G. Brown

Committee members agreed to prepare drafts of suggestions in these areas for the next meeting in March.

7. Admin. Rule 9 and TR 5 (G). Ron Miller, Division of State Court Administration discussed the use of addresses and dates of birth, in connection with the confidentiality provisions of the recently revised Administrative Rule 9. He said there was no intent to change the protection order process.
a. Committee members reviewed comments by Donna Sipe, Court Administrator, Johnson County.
b. Magistrate Ummel said his county is attaching a green sheet formatted for the address of the petition indicated in question six (6) of the petition form.
c. Members of the committee agreed the petitioner's date of birth should be removed from the cover sheet.
d. Committee members discussed the use of the petitioner's street address if the respondent was ordered out of the home.
e. Members of the committee discussed due process concerns if a portion of the protection order is confidential and the respondent is ordered to "stay away" from the petitioner in a later prosecution for Invasion of Privacy.

f. Committee members discussed the need to keep the confidential form confidential from the public as well as the respondent. However, courts keep this form confidential now in different ways including the use of a separate red envelope, a separate file in the court, and a separate file in the clerk's office.

Magistrate Ummel agreed to draft procedures addressing these concerns at the next meeting of the committee.

8. Presentation by Barbara Crawford.

a. Barbara Crawford, Marion County Prosecutor's Office, discussed the lack of space for the names of protected parties on No Contact Order cover sheets and the duplication of information between the cover sheet and confidential form for No Contact Orders. She proposed one cover sheet with supplemental sheet for names for protection orders and distributed a draft to committee members. Committee members agreed to consider whether the No Contact Order cover sheets should be different than Protection Orders.

b. Judge Linda Brown and Judge Forcum agreed to bring to the committee at the next meeting a form for a cover sheet and confidential form where there are multiple protected parties who do not live in the same household. They also agreed to determine if these forms could be the same or different. They agreed to work with IDACS.

9. Recent Legislation. Jeffrey Bercovitz distributed HB 1454 to committee members. This bill would permit a judge to issue a search warrant in a protection order case if there was probable cause to believe a respondent continued to possess firearms, provide a procedure for the return of firearms if they were removed, prohibit charging fees for foreign protection orders, and the use of a domestic batter conviction in another state for a domestic battery conviction enhancement in Indiana. Judge Forcum moved the committee take no position on the legislation. The motion was seconded by Judge George Brown. The motion passed 8-1.

10. Next meeting date.

a. Committee members agreed to think about modifying warnings at the end of the Protection Order forms to include a notice to the Respondent a hearing must be requested within 30 days of service when an Ex Parte Order is issued to contest it.

b. Members of the committee agreed to meet again on Thursday, March 24, 2005; Friday, April 22, 2005; June 24, 2005; July 22, 2005; and August 26, 2005; all from 12:00 noon – 3:30 p.m. at the Indiana Judicial Center.

Respectfully submitted,

Jeffrey Bercovitz, Director
Juvenile and Family Law