

**Supreme Court of Texas  
Protective Order Task Force  
Minutes of October 18, 2003 Meeting**

*Members in attendance (in person)*

Stewart Gagnon, Chair

Sandra Avila

Sue Hall

Hon. Patricia Macias

Amy Wright

*(by phone)*

Rhonda Gerson

*Others in attendance (all from Texas Lawyers Care)*

Emily Jones

Terri L. Marroquin

Jacqueline Watson

**Introductions**

Members introduced themselves.

**Mission of the Taskforce (Supreme Court Order)**

The standardization and simplification of pro se legal forms in order to increase access to the courts is an idea that has been discussed by the Texas Access to Justice Commission (TATJC). Some counties, such as Fort Bend, have created pro se forms with the involvement of the courts. The idea is to expand standardized forms to include protective orders and other family law matters and have them available for non-lawyers who cannot afford a lawyer or would not otherwise have access to the courts. The order of the Supreme Court of Texas is to draft a domestic violence kit. One year is allowed for the completion of the task. Other states have created such a form, but no real model exists in other states simply because Texas law is very different. The issuance of a protective order can have such drastic ramifications, such as loss of child custody or loss of gun permits, that it is difficult for unrepresented Texans to secure a protective order. Thus, a more pro se friendly form is needed, and the form and process should be standardized across the 254 different Texas counties.

**Discussion of current status and existing materials**

The pro se protective order kit that is currently being developed by the TATJC Assisted Pro Se Committee and the Women's Advocacy Project was reviewed. It was suggested that the length of the protective order application be shortened. It was suggested that by making the form shorter, it would be easier to distribute. The countervailing concern is that a shorter document may not contain enough detail to satisfy the statutory requirements.

It was recognized that there are issues that must be recognized in the protective order form standardization process. One concern is the over-simplification of the form. If the form is too simple, it may be easily overcome by the other party if represented by counsel. The safety of the applicant is also an issue, since it is well established that the issuance of a protective order may heighten the propensity for domestic violence to occur. Also, the applicant may not gain any meaningful access to the courts by the mere issuance of a standardized protective order application; there may still be obstacles to overcome such as the attitude of judges and prosecutors. Finally, the protective order statute itself is very complicated and impedes the creation of a short, simple protective order application that will stand up in court. It was suggested that while the task force moves forward with the task charged to it, the creation of the protective order kit, it should also compile a list of issues and concerns. It was also suggested that the task force should take a holistic approach to the issues of protective orders. Members also suggested looking to the way courts deal with child abuse issues for models.

#### **Plans for next steps**

The members agreed to work on the following items before the next meeting:

- Texas Lawyers Care will research the systems for dealing with child abuse cases, will send out to task force members the summary of the protective order survey, and will collect information on Judge Mike Denton's family violence court in Austin
- Emily Jones will email all task force members for their availability for the meeting
- Sandra Avila will send to task force members a summary of the protective order process
- Amy Wright will continue to work on the protective order pro se application and asks all members to send comments regarding the application to her. Amy will also invite a Texas District and County Attorney Association (TDCAA) member to the next meeting
- Judge Patricia Macias will bring to the next meeting copies of the Violence Against Women Act bench card and, with the assistance of Amy Wright, will contact the judge presiding in the county that consistently uses the Women's Advocacy Project protective order pro se packet
- All members are asked to meet with the players involved with protective orders in their locale (judges, prosecutors, service providers, etc.) and see who is using protective order pro se packets

#### **Other business**

There was no other business for this meeting.

#### **Select date for next meeting**

Depending on the results of the email to be sent by Emily, the next meeting will take place either Friday, January 9, 2004 or Saturday, January 10, 2004 in either San Antonio or Dallas.

The meeting was adjourned.

**Supreme Court of Texas  
Protective Order Task Force  
Minutes of January 10, 2004 Meeting**

*Members in attendance (in person)*

Stewart Gagnon, Chair  
Sandra Avila  
Rhonda Gerson  
Hon. Toby Goodman  
Sue M. Hall  
Jeana Lungwitz  
Marcus Taylor  
Amy Wright

*(by phone)*

Hon. Patricia Macias

*Others in attendance (all from Texas Lawyers Care)*

Emily Jones  
Jacqueline Watson

1. **Welcome and Introductions**
2. **Approve minutes from the October 18 meeting**  
Sue Hall moved to approve the minutes. The motion passed without opposition.
3. **Reports on tasks assigned at October meeting**
  - a. **Cluster Courts (Foster Care Courts) information**  
Emily Jones reported that she spoke with Angela Clark, an attorney with the court. Ms. Clark said that the cluster courts are legislatively created courts that deal with child abuse cases and any other matter so related to the child abuse case with the same docket number. These courts may deal with a protective order as part of a child abuse case, but Ms. Clark felt that if the courts were to expand its jurisdiction to specifically handle protective orders, it would require a change in the statute creating the courts. It was also pointed out that the cluster courts have judges that ride circuit, and therefore would be curtailed from hearing emergency protective orders. There is a new statute, however, that allows emergency protective orders to be received and granted by fax. Stuart Gagnon asked that the task force maintain a list of legislative changes to include in the task force's final report. Emily Jones will contact Mari Kay Bickett of the Center for the Judiciary to get domestic violence bench cards.

that are abusing the protective order process. Sandra Avila reported that magistrates in the valley are not as cooperative, and that the window of time between the arrest for assault family violence and the arraignment is too small to contact victims regarding protective orders. Magistrates usually issue "stay away" orders and do not give the victims enough information for a protective order. In non-arrest cases, the law enforcement officers do not give victims enough information regarding the protective order process. The WAP pro se protective order packets are not used in Cameron or Hidalgo counties, and victims are simply referred to the district attorney's office, which does not accept many cases. The Cameron county clerk indicated to Sandra Avila that if a protective order applicant had been turned down by the district attorney's office and still wanted to apply for a protective order, the district clerk's office would allow the applicant to file the application. Jim Wells County magistrates are not only denying emergency protective orders if there is an indication that the abuser is represented by counsel, there also appears to be a denial of access to the courts to pro se litigants. Stuart Gagnon reported that in Harris County, most protective orders are agreed orders and thus there are few trials. He also suggested that discussion of these issues continue at a later date, so that work on the main task force project, the protective order kit, can continue.

**4. Discussion of revised materials (sent to members in December)**

Emily Jones provided members with a copy of a pro se protective order application and affidavit from Pine Tree Legal Assistance in Maine as a sample of a short application. The members agreed that a longer application was better for tracking the statutory language, and made revisions to the application and affidavit. The members agreed that the application, affidavit, and ex parte order were the only documents that needed to be revised, and that the protective order itself was good as is.

**5. Discussion of ideas to publicize the completed kit**

The members will begin discussions on ways to publicize the completed kit at the next meeting.

**6. Plans for next steps**

- Amy Wright will distribute the revised application and affidavit to all members.
- Members should share the latest drafts with judges, lawyers, and advocates for comments.
- Members should also have members of the public review the drafts for readability.
- A group of task force members will begin work on the written instructions that will accompany the protective order kit.
- It was suggested that a video could also be made to accompany the protective order kit, with step-by-step instructions for completing the kit.

- b. **Judge Mike Denton's family violence court**

Jacqueline Watson reported that Judge Denton was very interested in assisting the task force. Judge Denton mentioned that the San Diego County Attorney's office had several pro se forms that may be of use to the task force. He will forward this material to the task force. Judge Denton also said that in his experience, there were few pro se litigants in Travis County because most protective order applicants in his court were represented by the county attorney's office. Judge Denton's main concern was ensuring that the pro se protective order form included enough information to facilitate the criminal prosecution of protective order violators. Amy Wright pointed out that Travis County has a high number of applicants represented by either the county attorney's office or one of the four to six programs serving victims of domestic violence. This is not the case in most counties in Texas. Rhonda Gerson described a different system in Harris County, where fewer programs assist a much bigger population, and the county attorney's office does not accept many cases. Furthermore, in Harris County, protective order applications are heard one day per week, in contrast to Dallas County, where protective order applications are heard two days per week. Brewster County judges send pro se clients to shelters to seek assistance with the Women's Advocacy Project (WAP) protective order packet.
- c. **Information on judge in county that uses WAP pro se packets**

Amy Wright will research which county clerk routinely returns the packet survey form and find out the judge who is accepting an apparently large number of pro se protective order applications.
- d. **Meetings with local players to see who uses the PO pro se packets**

Amy Wright reported that the packets are distributed through courts and sheriffs offices around the state. WAP also receives calls from counties around the state that have no one to assist applicants for protective orders. Marcus Taylor reported that in Quitman, Texas, the magistrate will issue an emergency protective order immediately whenever someone is arrested for assault family violence, and then will send the victim to shelter for assistance with the WAP protective order if the victim wants to apply for a protective order. Also, officers have a "zero-tolerance" policy that results in an arrest any time there is a family violence call. Amy Wright reported that Travis County uses magistrate's orders often, and will encourage a victim to seek a protective order but will defer to the victim's wishes. If there is enough time between the arrest of someone charged with assault family violence and the arraignment, the WAP staff attorney will try to contact the victim of the assault to explain her rights in the protective order process. Travis County magistrates are cooperative with the WAP attorney, and will sometimes even hold arraignments until the WAP attorney speaks with a victim. In addition, WAP has a grant from the Office of Attorney General to bring mandamus actions against counties

It was estimated that the cost for such a video would be around \$10,000. Amy Wright reported that WAP has a video that was created for a similar purpose, and she will bring it to the next meeting.

- For the next meeting, Toby Goodman will invite Richard "Casey" Hoffman, Deputy Attorney General for Families and Children, and Jacqueline Watson will invite Judge Mike Denton.
- Emily Jones will contact Mari Kay Bickett for domestic violence bench cards.
- Texas Lawyers Care will email all members of the Task Force for selection of a final date for the next meeting.

**7. Other business**

There was no other business.

**8. Select date for next meeting**

The next meeting will be either Friday, March 26 or Saturday, March 27 in Austin, Texas.

The meeting was adjourned.

**Supreme Court of Texas  
Protective Order Task Force  
Minutes of March 27, 2004 Meeting**

*Members in attendance*

Stewart Gagnon, Chair  
Sandra Avila  
Rhonda Gerson  
Hon. Toby Goodman  
Sue M. Hall  
Jeana Lungwitz  
Amy Wright

*Others in attendance*

Carla Bean (for Cyndi Dyer)  
Judge Mike Denton  
Ann Kollmorgen  
Emily Jones

**1. Welcome and Introductions**

**2. Approve minutes from the January 10 meeting**

The minutes were approved as written.

**3. Reports on tasks**

- a. Emily Jones distributed domestic violence bench cards received from Mari Kay Bickett of the Center for the Judiciary.
- b. Members reported on comments that were collected from judges, prosecutors, family lawyers and advocates for victims of domestic violence. Stewart Gagnon reported that he attended the West Texas County Judges' Association in Midland to discuss the Taskforce's work. The judges were very excited about this project. Stewart is also trying to get the protective order project on the agenda for the Advanced Family Law Training. Emily Jones will ask Justice Harriet O'Neill about help in doing this. Sandra Avila got comments on the draft documents from a judge who thought more space was needed on the forms. Another judge she spoke with was excited about the kit and wanted to use the form right away. Sue Hall said that one Bexar County judge expressed concerns about victims of serious domestic violence proceeding pro se. Another judge said the application should provide more information to prove it up. There is a need for more specific information, including dates, places, and times for an ex parte order. Amber Liddell of Bexar County said the language needs to be simplified. For example, what does "applicant" mean?

Ann Kollmorgen brought a number of suggested changes to the meeting. The group discussed all of them and made changes accordingly. Judge Mike Denton suggested adding a place for fingerprints at the end of the order to add in enforcement.

**4. Discussion of statutory approval of forms**

Members discussed whether statutory approval of the forms should be pursued. Rep. Goodman said this form could be approved in a bill without limiting use to only this form. The group also discussed statutory changes that would simplify and clarify some confusion in this area that has resulted from previous changes in the law. The group will make a list of suggested statutory refinements to present to the Court in the final report.

**5. Plans for next steps**

- Amy Wright and Jeana Lungwitz will work on instructions for the kit.
- Amy Wright will send out the revised forms to the group.
- Emily Jones will talk to Judge Lora Livingston about determining grade level of the forms' language
- Emily Jones will check on possibilities for translation into Spanish (Sophia Leon—certified translator in Austin).
- Rhonda Gerson will create a draft plan for dissemination of the kit.
- Everyone will look at the findings issue.
- Sandra Avila will research recent cases on whether findings are required if there is a settlement and no hearing.

**6. Other business**

There was no other business.

**7. Select date for next meeting**

The next meeting will be Saturday, May 1 from 10:30 to 2:30 at the Texas Law Center in Austin.

The meeting was adjourned.



**Supreme Court of Texas  
Protective Order Task Force  
Minutes of May 1, 2004 Meeting**

*Members in attendance*

Stewart Gagnon, Chair  
Sue M. Hall  
Jeana Lungwitz  
Amy Wright

*Others in attendance*

Kathy Shafer—Office of the Attorney General  
Emily Jones

**1. Welcome and Introductions**

**2. Approve minutes from the March 27 meeting**

The minutes were approved as written.

**3. Continued work on PO forms based on comments from others**

The group discussed whether findings of domestic violence are required for a protective order. Part of the Task Force's work is using the kit to educate and show that findings are required for a PO, even in a situation where there is an agreement.

*The group added to its list of other issues to present in its final report to the Supreme Court that the Family Code does not match the new stalking statute.*

The group continued to make changes to the order based on received comments and input. Stewart Gagnon agreed to ask Beth Barron for the Harris County checklist of assaultive behaviors. Amy Wright agreed to work on the one-page DPS information form. Jeana Lungwitz agreed to ask the Travis County clerk what law enforcement agency they send protective orders to. Emily Jones will ask the clerks' association if it has a position on this issue.

The group discussed several types of needed instructions, including global information ("What is a Protective Order?"), specific information, and step-by-step information, preferably on-screen with arrows, etc. Sue Hall agreed to talk to Alan Schoolcraft (ProDocs) about possible creation of a document assembly program for the kit.

**4. Distribution**

The group discussed distribution of the kit. Hard copies will be needed in addition to on-line versions. Include a footer with the date and the location (on-line) to

check for updates. A distribution list should be maintained so that updates can be distributed.

Emily will put together a proposed budget for creation and distribution of the kit, including Spanish translation, low-literacy revision, press kit, CDs, mailing, duplication, publicity and training.

**5. Plans for next steps**

- Prepare a one-page DPS information form—Amy Wright
- Talk to Travis Co. about which law enforcement they send Protective Orders to—Jeana Lungwitz
- Find out if clerks association has a position on #2—Emily Jones
- Talk to Alan Schoolcraft about document assembly—Sue Hall
- Work on legislative approval of forms--Stewart Gagnon (with Toby Goodman)
- Create a budget for assembly, distribution, translation, publicity for the kit—Emily
- Create first draft of part 1 and 3 of the instructions--Amy and Jeana
- Create first draft of part 2 of instructions (get to Amy and Jeana by May 21)—Emily (TLC)
- Email revised forms (from May 1) to the Taskforce--Emily
- Ask Beth Barron for Harris County checklist of assaultive behaviors--Stewart

**6. Other business**

There was no other business.

**7. Select date for next meeting**

The next meeting will be Saturday, June 26 from 10:30 to 2:30 at the Austin office of Fulbright & Jaworski if other members agree.

The meeting was adjourned.

**Supreme Court of Texas  
Protective Order Taskforce  
Minutes of July 10, 2004 Meeting**

*Members in attendance*

Stewart Gagnon, Chair  
Sandra Avila  
Rhonda Gerson  
Rep. Toby Goodman  
Sue M. Hall  
Amy Wright

*Others in attendance*

Emily Jones

**1. Welcome and Introductions**

**2. Approve minutes from the May 1 meeting**

The minutes were approved as written.

**3. Report on interactive on-line forms**

Sue Hall reported that Alan Schoolcraft with Pro Docs said he will include the Protective Order kit in his Family Law documents and that he will create an interactive version for a website. Sue will ask him what the value of that contribution would be.

**4. Related issues**

*The group added to its list of issues to include in the report to the Supreme Court the issue of the Women's Advocacy Project being able to handle all the calls for help to its hotline that the kit is likely to generate.*

Amy Wright said that we need to be thoughtful about back-up.

**5. Work on instructions**

Amy raised the question of how much information to put in the instructions. She and Jeana Lungwitz met three times for three hours each time to reorganize the narrative instructions, "All About Protective Orders." Then Amy completed work on the narrative that she and Jeana drafted. The other instruction pieces must include step-by-step instructions and a where-to-go, what-to-do part. The members then discussed goals for the instructions and spent the rest of the meeting working on Amy's draft.

**6. Plans for next steps**

- Emily Jones agreed to have Susan Schoppa, the new attorney at Texas Lawyers Care, talk to Amy and then work on the draft step-by-step instructions for the affidavit, ex parte order and the final order and then email it to the members.
- Emily will send Beth Barron's assaultive behaviors to everyone
- Sue Hall will shorten the general instructions to two pages
- Everyone will look at Amy's long version of the instructions
- Emily will send Rhonda's proposed distribution list to everyone for additions
- Rhonda Gerson will draft a cover letter for the kit
- Rep. Toby Goodman will work with the Legislative Council to draft legislation for approved forms
- Stewart Gagnon will work on the final report to the Court

**7. Other business**

There was no other business.

**8. Select date for next meeting**

The next meeting will be Thursday, August 19 from 10:30 to 2:30 at the Texas Law Center.

The meeting was adjourned.

**Supreme Court of Texas  
Protective Order Taskforce  
Minutes of August 19, 2004 Meeting**

*Members in attendance*

Stewart Gagnon, Chair  
Sandra Avila  
Rhonda Gerson  
Jeana Lungwitz  
Amy Wright

*Others in attendance*

Emily Jones  
Susan Schoppa

1. **Welcome and Introductions**
2. **Updates on various issues/work**

Stewart Gagnon reported that he has made comments to the general overview section that Sue Hall is now editing. He will contact her for follow-up.

Emily Jones reported that Justice O'Neill asked for a rollout date of the kit; Justice O'Neill would like First Lady Perry to be involved in media campaign of rollout.

Members discussed deadlines and potential rollout schedule, in light of fact October is domestic violence awareness month, but no dates were set. Stewart said he anticipated the kit would be completed by September 30, 2004, but not distributed by then.

Stewart has edited draft of cover letter that Rhonda Gerson prepared and will re-circulate it.

Members discussed the compilation of the distribution list. Stewart would like a mail/merge list developed. Members discussed whether constitutional county judges should be added.

Stewart has outline of final report to the Court and will circulate it.

3. **Legislative-related issues**

Stewart and Hon. Toby Goodman have discussed legislative aspects.

Members discussed what legislative changes may/should be proposed regarding Ch. 56 of Code of Criminal Procedure. Amy explained that this is a complicated area and she is not sure that the proposed change is good idea. She is concerned that the Texas ATJ Legislative Committee may not understand the interplay of statutes.

Members discussed changes to Family Code regarding protective orders to strengthen/codify pro se litigants access to courts, in light of some reports that judges do not allow pro se litigants to pursue them.

Amy Wright made a motion to ask that the ATJ Legislative Committee consider changing 82.002(a) to insert language under "Who may file application" as follows [proposed change in italics]:

"With regard to family violence under Section 71.0004(1) or (2), an adult member of the family or household may file an application for a protective order, *through a prosecuting attorney, other attorney, or pro se*, to protect the applicant or any other member of the applicant's family or household."

Jeana Lungwitz seconded the motion. Unanimous vote of support by present members.

**4. Approval of minutes**

Approved from July 10, 2004 with correction that Amy completed work on the narrative that Jeana and she did, rather than "Amy rewrote it."

**5. Bar Grant Application**

Emily reported that no feedback has been received.

**6. Work on instructions**

Members worked on editing the draft instructions for "How to Complete the Application for Protective Order." Amy made the changes to the instructions and some formatting ones to the forms on her laptop compute, as the group agreed on them.

**7. Plans for next steps**

Susan will follow the style of the newly edited instructions for completing application and draft instructions for the affidavit, temporary ex parte order, and protective order.

**8. Next meeting**

Members agreed to meet in September, but no date was chosen.

**9. Adjournment**

### COLLATERAL SOURCES

The following individuals and organizations provided input to the Taskforce, in person at Taskforce meetings, through contact with individual Taskforce members, or through written comments:

Elizabeth Barron, Attorney, Harris County District Attorney's Office  
Hon. Suzanne Covington, Travis County 201<sup>st</sup> District Court  
Hon. Rudy Delgado, Hidalgo County 93<sup>rd</sup> District Court  
Hon. Mike Denton, Travis County County Court at Law #4  
Hon. Alex W. Gabert, Starr County 229<sup>th</sup> District Court  
Hon. Annette Galik, Harris County 245<sup>th</sup> Family District Court  
Hon. Rodolfo "Rudy" Gonzalez, Hidalgo County Court at Law #1  
Hon. Jack E. Hunter, Nueces County 94<sup>th</sup> District Court  
Ann Kollmorgen, Attorney, Tarrant County Criminal District Attorney's Office  
Amber Liddell, Staff Attorney, Bexar County District Courts  
Lori Ann Lima, Public Policy Specialist, TCFV  
Linda Magee, Attorney, Travis County Attorney's Office  
Laura Martinez, Attorney, Texas RioGrande Legal Aid  
Hon. Paul Andrew Mireles, Bexar County 73<sup>rd</sup> District Court,  
Angela Miranda-Clark, Attorney, Foster Care Courts at OCA  
Hon. L. Arnoldo Saenz, Jim Wells County Judge  
Kathy Shafer, Attorney, Texas Office of the Attorney General  
Hon. Sue Sheppard, Associate Civil Judge, Travis County Courts  
Hon. Harrison Stafford, Jackson County Judge

West Texas County Judges Association