



CourtWatch Report

Castle Rock v. Gonzales: The Implications for Victims, Advocates, Peace Officers and Judicial Officers

Like most advocacy agencies in the domestic violence community, Project Safeguard held its collective breath waiting for the Supreme Court to make a decision about whether Jessica Gonzales, a mother whose three children were abducted by their father one night in June of 1999, could proceed on an extremely technical route to sue the Castle Rock Police Department for failure to enforce a protection order she had obtained in the process of filing for divorce.

Gonzales' ex-husband, Simon, killed the children that night before going to the Castle Rock police station and opening fire with a semi-automatic handgun purchased earlier that evening. Simon was ultimately killed in the shootout, after which Castle Rock police officers discovered the girls' bodies in the truck.

After a series of legal battles in the courts, the 10th Circuit Court made its 6-5 decision in Gonzales' favor, stating that the protection order gave Gonzales a legitimate expectation of protection. Castle Rock appealed that decision to the U.S. Supreme Court, and in its arguments stated that the decision would open the door to a "potentially devastating" flood of lawsuits that "could bankrupt municipal governments.... given the inevitability of less-than-perfect enforcement."

As an organization that deals so intensively with the civil protection order process, Project Safeguard considered what either of the possible outcomes in this case would have meant for the victims who would potentially be utilizing the judicial system in the future. If

the decision had been for Gonzales, would there have been the unintended consequence of pressure to grant fewer protection orders? Could a movement have grown quickly to change Colorado's statutes so that civil protection orders could not be granted on a permanent basis?

If the ruling went against Gonzales, would victims continue to seek out protection orders in spite of the Supreme Court's deci-

But what further education could we give women for them to feel safe and to help law enforcement to continue to enforce the orders? And what can judicial officers provide in protection order process for those orders to regain the credibility that was intended when they were introduced in 1976?

Interestingly, part of the strategy ultimately came back to the training we had already started with the Denver Police Department

Outreach and Education:

- *Victims ...should understand what a protection order does, and does not, provide in terms of safety.*
- *Advocates...should be prepared to intervene if a protection order is not granted, and should also be prepared to assist with safety planning.*
- *Judges....should understand that a victim's criminal no contact order is not a basis for denying a request for a civil protection order.*
- *Police ...should communicate regularly with the appropriate parties if the cultural sense is that protection orders are not written specifically enough to enforce.*

sion? Would a community working so extensively with domestic violence victims retain its faith in the effectiveness of protection orders?

As most in the domestic violence community are aware, Castle Rock prevailed in a 7-2 decision published by the Supreme Court in June of this year and, because of this decision, individuals in the community were forced to reassess how to make sure protection orders actually offered the level of protection victims needed.

It goes without saying, of course, that protection orders should only be considered one step in a larger plan for victims to find a measure of safety.

(see page 4).

When individuals from Project Safeguard, CCADV and the Denver Police Department first met to plan a training agenda, *Castle Rock v. Gonzales* was still a figurative blip on the horizon.

By the time each district had been scheduled, *Castle Rock* had become one of the focal points of the training plan.

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...Castle Rock v. Gonzales: Moving Forward

(...continued from page 1)

But, in the world of unintended consequences, what occurred in each of those jurisdictions was dialogue and questions from the officers about what protection orders look like on the street. This feedback is what we took with us when we expanded our training into the Aurora Police Department, and the concerns we heard dealt with all aspects of protection orders, including judicial response and administrative challenge in the enforcement process.

What, then, makes protection orders effective? When considering the answers to that question, it is crucial that all of the parties who have contact with the victim and the perpetrator understand that their answer might be different than the other parties who have contact with the protected and restrained parties, but the shorter answer is “buy-in”.

Every individual who touches a protection order needs to believe it a valid tool for reducing both the likelihood and the actual occurrence of violence between two people. Understanding what makes protection orders “enforceable” can, and should, start with the judges and magistrates who write them.

Judges and Magistrates

A study by the National Institute of Justice (NIJ) confirmed previous research showing a strong correlation between the severity and duration of abuse—the longer a woman experiences abuse, the more severe the abuse is likely to become and, therefore, the more likely a woman is to be severely injured in that relationship. So, if a woman is trying to get protection before the relationship escalates, she deserves that protection.

A civil protection order does not require her to have called the police. Whether or not the police have been involved or a criminal case filed should not be a consideration when determining whether “good and sufficient” grounds exist.

In a study published in a 2005 Violence Against Women (VAW) Journal, 80% of both urban and rural women that filed for protection orders cited psychological abuse (denying access to money, isolating them from friends and family), and 57% mentioned physical violence, illustrating that emotional abuse often happens before physical abuse and,

therefore, a woman may not feel she has enough reason to involve law enforcement.

The protection order must also be written to reflect the practicalities of what exist for that couple. This is a predominant theme in those orders that deal with temporary care and control and child exchanges.

In the VAW article, reference was made to a study that less than one third of rural (27%) and less than one half of urban (49.5%) women with children in common with their abusers had specific stipulations regarding custody included in their orders. This, of course, leaves the door wide open for unnecessary contact and safety risks for women and their children.

Another overlooked tool for judicial officers regarding protection orders is contempt of court. Where this is most valuable is between the temporary and permanent protection hearings. If a victim can prove a violation occurred, a quick and effective punishment could be to hold the abuser in contempt of court and sentence him to jail. An Adams County magistrate utilized this strategy, and the defendant spent two days in jail. What better, faster way for judicial officers to illustrate they are willing to stand behind their orders?

Law Enforcement

During the training we did with both the Denver Police Department and the Aurora Police Department, common themes prevailed. One of those was a frustration with individuals they considered “abusive” of the protection order process.

Because police are generally involved in the enforcement of orders, they had little perception of **a)** how many protection orders exist that never need to be enforced and **b)** how many protection orders have nothing to do with domestic violence (Colorado statistics indicate that roughly 4 in 10 orders are not domestic violence related).

The other prevailing theme was the lack of consistency when trying to pull information from CCIC or NCIC. Often, temporary protection orders came up with no expiration date, or expired orders remained in the system, instead of being vacated.

While the training we did acknowledged some of those barriers, it is also important for peace officers, particularly in Colorado, to understand the full provisions of C.R.S. 18-6-803.5, Full Faith and Credit. While many of the officers were knowledgeable and comfortable with

this information, there were also many who were not. Education needs to continue so officers understand that erring on the side of caution is beneficial to them professionally.

Advocates

Advocates have the blessing, or the curse, of potentially working amongst all of the above agencies. It is important for them to continue to reach out to these agencies for training and collaboration.

Additionally, their enhanced understanding of how other agencies operate can be an important tool for them as they work with victims.

Conclusion

As it too often happens, fatalities were required for attention to be directed towards the weaknesses in protection orders. Now that *Castle Rock v. Gonzales* has been decided, the best that can happen now is that we increase our collaborative efforts with the knowledge that it need never happen again.

2004 Protection Order Filings—Colorado			
*As provided by the State Court Administrator's Office			
Judicial District	County	Domestic Violence	Non-DV
1	Gilpin	2	12
	Jefferson	818	568
2	Denver	1090	637
17	Adams	629	424
	Broomfield	60	44
18	Arapahoe-Aurora	1113	468
	Arapahoe-Littleton	298	331
	Douglas	222	181
	Elbert	15	50
	Lincoln	22	21
	All Other (18 Districts)	4738	4044
	State Totals	9007	6780

Editorial:

Where are you hiding the power of your conviction??

Valerie Jarstad, CourtWatch Coordinator

Talk about piquing my interest – easily lured into the abyss of the power of positive thinking, and even more susceptible to the idea that virtually nothing is certain and anything is possible, I couldn't help but be attracted to the headline that appeared on page 9A of the November 16, 2005 Rocky Mountain News: "Woman's 'crime' was never illegal".

A defendant in a criminal case had pled guilty to possession of a controlled substance, a drug she had obtained with a prescription. She received a 90 day jail sentence and a year in work release. Apparently, according to the newspaper article, while in the work release program, she was receiving yet another prescription drug, one that she shared with another inmate.

The woman pled guilty to distribution and appeared before the same judge for her new sentence.

Lucky for her then, that while the judge was the same, her defense attorney was not. What the new defense attorney discovered in his research was that the drug that had led to the first set of charges was not a controlled substance at all.

The charges in the initial criminal case stemmed from a police officer who had made the (incorrect) determination about the drug in the first criminal case. No one checked to verify whether the officer was correct in his assumption.

The original defense attorney proceeded with his defense of the case, the District Attorney's office was quoted as saying it had no idea why the defendant had been charged and convicted of something that wasn't a crime, and the District Judge presiding over the case apparently was also

unaware that the original drug was not a controlled substance.

I don't mean to be glib, but that seems to me like a lot of educated, intelligent people who all got caught up in the same mistake. And, from a journalist's viewpoint, it also qualifies as a severe case of not checking your facts. The reality, though, even in journalism, is when there are time constraints, deadlines looming, and people you trust to be experts speaking what you trust to be the truth, the temptation and the inclination is not to linger on what appear to be minor details, but to write the story, resolve the facts of the case, and move on to the next pile of work on the desk.

But what does the above real-life example of a criminal justice "breakdown" mean to us as professionals? Is there something to be learned, or was the case on the western slope a fluke? Unfortunately, I believe that outcomes like this, while obviously not frequent, do happen, and even if infrequent, the mistake will affect at least one person, and that person may be the person who crosses our path professionally.

I took a call recently from an advocate in a rural area who was trying to secure any resources she could on behalf of her client. Where it had all gone wrong for the victim was at a permanent protection order hearing. The advocate had gone to great lengths to retain an attorney to assist the victim who, after fleeing the nearby county she lived in with her husband, was facing not only her husband, but his family and their influence in that community. When her husband's attorney argued

that the permanent protection order should not have been heard in the "new" county because the victim had not established Colorado's requisite residency requirement (even though the two parties were arguing the necessity of a protection order in county court, not a dissolution of marriage action in district court), the victim's attorney did not argue. The judge who heard the permanent protection order request ruled in favor of the defendant/respondent, based on a technicality that did not even apply to their situation.

I will stop short of suggesting that bravado and statements made with conviction as opposed to substance could win the day for your victim in court. What I will suggest is that these examples make clear how important it is for victims, advocates, attorneys **and** judges to rely on more than someone's statement about what is fact versus what is fiction.

It never hurts to ask the simple questions, "Are you sure?" or "Can you explain your decision/reasoning/logic to me?" It never hurts to be a little skeptical, because skepticism and questions presented deferentially are not disrespectful. Actually, they illustrate an investment in the process, and contribute to the evolution of learning. I would challenge anyone to say they can't learn a little bit more about the complex civil, criminal and social systems in which we work, or on the other side of advocacy, that we not be able and willing to account for our actions and decisions.

The final outcome in the second of the two criminal cases for the woman with the drug charges was that she received probation and mental health treatment for sharing her prescription with an inmate.

And what of the final outcome for the woman seeking protection from her husband? I wish I knew.

"The important thing is not to stop questioning."

- Albert Einstein

Protection O
Procedures

Training Reaps Unintended Rewards

When Project Safeguard teamed up with the Colorado Coalition Against Domestic Violence (CCADV) and the Denver Police Department earlier this year, the goal was to bring information about new developments regarding protection orders to Denver's six police districts.

The training included an explanation of changes made by the State Court Administrator's Office to protection order face sheets, as well as an explanation of the potential impact of the Castle Rock v. Gonzales Supreme Court Case on police officers. It also provided a review of the reasons for obtaining a protection order, how and when to make a referral to protection order court, and a quick recap on full faith and credit for peace officers.

What the training also provided was valuable feedback for the trainers, Valerie Jarstad, the CourtWatch Coordinator for Project Safeguard, and Randy Saucedo, Advocacy Director

for CCADV.

More than 275 officers at the six districts and attending roll calls ranging from 6:00 am to 10:00 pm offered feedback on scenarios encountered on the street and concerns about the quality of information currently accessible to them on the street.

Because of the level of feedback received from Denver's police officers, Project Safeguard next collaborated with the Aurora Police Department and its three districts to both continue the protection order training and to gather additional information about the challenges specific to enforcing orders. Additionally, specific changes made in the protection order

"When will our consciences grow so tender that we will act to prevent human misery rather than avenge it?"

- Eleanor Roosevelt

process in Arapahoe County were also addressed with more than 300 Aurora police officers.

The trainings in Aurora confirmed similarities between the two agencies about their experiences with enforcing protection orders.

All of the information, concerns and questions gathered during these trainings will be compiled and sent to appropriate members of the Denver Police Department and the Aurora Police Department.

In addition, specific concerns about the administrative piece of protection order entry will be addressed with the State Court Administrators Office.

If you are interested in receiving this training, please contact Valerie Jarstad at 303-863-7416 or at courtwatch@projectsafeguard.org.

Karen Rodriguez: The Lessons from a Difficult Case

Earlier this year Edward and Karen Rodriguez were charged with crimes ranging from child abuse to domestic violence. Tried separately, Edward Rodriguez agreed to a plea bargain of two counts of child abuse and was sentenced to 100 years for each of those counts, to be served consecutively. Karen, after much controversy and outcry from the community, was found guilty after a several-day trial on 24 counts of sexual assault on her children and sentenced to 110 years.

But Karen Rodriguez, whose name alone elicits reactions ranging from obvious discomfort to rage, was also a victim of extreme physical and emotional abuse. Domestic violence and sexual assault severe enough to cause her to be declared legally disabled was part of this family's life, making her case perhaps one of the most difficult for anyone in recent memory to process in terms of how convoluted, complicated and horrific

domestic violence cases can be. If honesty is to prevail, this is a victim most advocates would have been overwhelmed by had she presented with details about the physical, sexual and emotional abuse she and her children had endured for so many years. But she didn't. So coming in contact with the community as the perpetrator of such heinous violence against her own children created a whole different dynamic for law enforcement, advocates and the judiciary to consider.

Rodriguez' attorney said he took many paths in the quest to become educated about Karen's past and to find her psychological support once she was in jail. Even amongst the advocates and the experts, immediate resources and help were apparently not easy to come by. Why? Because we don't have the capability, the tools, the experience to work with victim-perpetrators with her back-

ground. Karen Rodriguez is not THE face of domestic violence in our country. She is one face of domestic violence whose circumstance we cannot ignore. Victims are victims; drug users and suburban mothers, teenagers and senior citizens, professionals and the unemployed.

As a society, we don't have the luxury of choosing only 'good' victims or dealing with issues that are easy on us emotionally and are non-controversial. We need to understand and remember that not only is this true, but that progress in societal dynamics like domestic violence have come because there are individuals and agencies out there willing to push the envelope.

"Restlessness and discontent are the first necessities of progress." - Thomas Edison

Fatality Review Looks at 10 Years of Research

Kelly Anderson-Block, Fatality Review Director

The Denver Metro Domestic Violence Fatality Review Committee (FRC) is approaching a decade of conducting research vital to the metro area and surrounding communities.

The purpose of the committee is to investigate domestic violence related fatalities occurring within the Denver metro area and collecting numbers for statewide domestic violence related fatalities. The purpose of the data collected is to provide education to improve the understanding of domestic violence related fatalities in an effort to prevent further violent behavior.

The Fatality Review Committee recognizes the perpetrator is ultimately responsible for the fatality. Instead of placing blame, we use the information to better understand the dynamics of domestic violence when death is involved. Ultimately, we would like to hold the perpetrator accountable and diminish the possibilities for future fatalities.

In the past decade, there has been increased research in the area of domestic violence fatalities. As a community, we are faced with many challenges in combating domestic violence. The FRC seeks to better understand what signs to look for and what questions to ask, to better assist the victim. But do we actually understand why we are asking these questions? We are told to ask, "Does he have access to firearms?" But do we know what the risk is? We are told to ask, "Is he employed?" But do we understand the implications? We discuss the abusers use of drugs and alcohol, but do we really know what risk the victim is faced with?

The American Journal of Public Health published an article in 2003 titled *Risk Factors for Femicide in Abusive Relationship: Results from a Multi-site Case Control Study*. In this study the authors identified a combination of risk factors which increases the likelihood of intimate partner

homicide involving an abusive man who kills his female partner.

The top three risks identified were the batterer's unemployment, his access to guns and threats of deadly violence (Campbell et al, 2003).

The batterer's lack of employment increased the victims risk fourfold.

An abuser has more to lose if he has a steady income or is socially involved in the community. When an abusive partner has no employment and his economic support is the victim, the abusive partner has more to lose if the victim leaves. In fact, we found that an employed abusive part-

ner's separation after living together" (Campbell et al, 2003). In the data collected by FRC, 40.9% of the victims were separated from their abuser and separation was imminent in 12.5% of the cases.

While there are numerous risk factors to be aware of when safety planning with victims studies have been able to identify key risk factors that could increase a woman's risk of homicide.

As advocates, when we are assisting women, we should have an understanding of why some questions are essential in understanding how to assess the risks facing a victim. The Denver Metro Fatality Review Com-

Colorado Fatalities Since 1996

- 513 Domestic Violence related fatalities since 1996
- 143 Domestic Violence related fatalities reviewed
 - 58 victims were in a current intimate relationship with the perpetrator (currently living together)
 - 25 victims were the former spouse or partner of the perpetrator
 - 5 victims were current partner or former partner but had not lived together
- 12.5% of the cases involved a collateral fatality
- 87.5% of the victims were female and 12.5% of the victims were male
- 36.4% of the parties had been together for 1-3 years
- 40.9% of the victims were separated from the perpetrator at the time of the incident. Of that 36.4% of victims had been separated for 1-4 weeks
- 52.3% of the cases involved a firearm, of that 37.5% of the perpetrators used a handgun

ner was more than twice as likely to kill themselves (Abrams et al, 2001).

An abuser's access to firearms increased a victims risk five times. Of the 88 cases reviewed by FRC, 80.7% involved the use of a weapon, of that 52.3% used a gun.

The risk of homicide was "increased nine-fold by the combination of a highly controlling abuser and the cou-

mittee will continue to research these tragic cases in hopes of decreasing the fatalities in Colorado.

If you are interested in more information about the Fatality Review Committee or would like us to do a presentation, please contact Kelly Anderson-Block at (303) 863-7416 or fatalityreview@projectsafeguard.org.

Perspective: Domestic Violence Victim shares her story with the Domestic Violence Community

Name Withheld By Request

The following is a victim's representation of what she experienced while in her abusive relationship. She sent CourtWatch two emails: one stating some basic facts about the issues she dealt with; the second chronicling her story as she compared it to her work.

I'm sending this to you because it gives the big picture with past, present and future of how my experience impacted me. Of course, the letter does not do justice to my mental, emotional and physical state but at least it should show the overall deleterious impact.

My situation may be a little different because he was an Army officer (and may still be?) for the duration of our engagement and marriage. I never reported any of the many, many incidents. I didn't even know what DV was. I had never heard of it. I knew that the physical abuse was wrong, but I didn't know that it happened to other women. I wish I had known back then that I had BWS (Battered Women Syndrome), PTSD (Post Traumatic Stress Disorder) and all the other things that go along with DV.

Deciding to leave was the hardest thing that I've ever had to do. I wanted so desperately to return, but I never did. When I became more angry and recognized the significance of his crimes, I wanted to file for divorce on "fault" grounds. He was making the separation/divorce so difficult that I got too scared and decided that I had no choice but to file on "no fault" grounds.

In order for the divorce to go through, I had to sign a confidentiality agreement not to disclose anything to police, the military, present/future employers, etc. When I got the letter, I absolutely lost it. I felt like the last right that I had left – right to free speech – was beaten out of me too. Then, to top it off, his lawyer sent another letter stating that his client

wanted to be the one to file and therefore, I would become the Respondent and not the Complainant.

I wish I could more open about this, but I will be in breach of contract if you release my name.

The brutality of Sierra Leone's Revolutionary United Front was at its worst when I was asked to comment on the most recent mutilations aimed at infants. Sitting at my desk thousands of miles away, I felt nothing: no horror, no outrage, no sympathy. This absolute void of emotion, so alien to someone committed to alleviating human suffering through social justice, was incomprehensible. Now incapable of empathy, my unwitting surrender was almost complete. In that moment of self-disgust in the unprecedented numbness, I fully

".... I refused to allow the terror in my home to ravage my last remaining shred of dignity and life force—compassion."

awakened to my horrific reality. Regardless of the consequences that had long imprisoned me, I refused to allow the terror in my home to ravage my last remaining shred of human dignity and life force – compassion. To save my beleaguered spirit from imminent collapse and my body from sure death, I fled.

Like many refugees with whom I worked, I was compelled to leave, wounded, with only the clothes on my back. I was fearful of my past's debilitating devastation and uncertain future, but resolute to create a better way. It is unclear how my nearly vanquished fortitude gave me the courage to take action, but I am certain of why: a growing determination to move beyond the passive resignation forced by my husband of four years and an incontestable will to survive. While my status gave the appearance of an unlikely victim, I shared common challenges with women internationally whose fundamental human rights are consumed by the ineffable cruelty inflicted by an unsuspecting

perpetrator. I did not, however, encounter similar barriers to accessing justice.

Raised in a family culture that valued me irrespective of gender and fostered respect of basic rights, I knew that I was due freedom and equity. Social services provided me with safe shelter and immediate medical care. Legal aid assured me that although I was victimized in the private sphere, I would be protected by a justice system that did not tolerate such violations with impunity or social sanction. As a citizen of a pluralistic democracy, I selected an attorney who provided competent representation and facilitated unfettered access to the courts. An independent and vigorous judiciary empowered me to demand accountability for the abuse of my individual rights and absolute disrespect for the rule of law. Indeed, without access to a transparent judicial system that ensured women's rights and equal protection of the law, my individual liberty and potential as a human being could not be realized.

This personal experience gives new insight to my many years in Latin America, the Caribbean, Southeast Asia, and West Africa, where I repeatedly witnessed atrocious human rights violations but never directly lived them. My prior commitment to sustainable development has expanded into a resolve to empower destitute persons to demand greater access to justice. As I now read of the reintegration of former combatants into Sierra Leonean villages, a collective determination to move beyond victimhood is reinforced. The resiliency of the human spirit is truly remarkable in spite of personal tragedy. Impassioned by this enduring strength, with courage, ingenuity and perseverance, I will advance indigent persons' inherent right to free and dignified lives.

As stated at the beginning of this article, the author's name has been withheld, not so much at her request, but to protect her against civil liability. She went on to attend law school on the East Coast.

Denver Metro Area Murder Trials

Aurora Municipal Court Changes Policies

County	Victim	Defendant	Date of Incident	Charges	Date of Next Appearance
Denver	John Scott	William Clare	2/14/2004	Murder	Motions—2/21/06 Jury Trial 5/3/06
Denver	Dometria Carbajal	Marcelino Carbajal	6/6/2004	1 st Degree Murder	Pled Guilty 2 nd Degree murder Sentencing Jan
Adams	Karen Stooles	John Warrenner	6/7/2004	1 st Degree Murder	Guilty at Trial Life No Parole
Denver	Sabra Lomax	Mario Rios	6/16/2004	Murder	Jury Trial 3/22/06
Denver	Robert Orenday	Linda Meastas	6/18/2004	2 nd Degree Murder	Jury Trial 1/17/06
Douglas	Roy Martin	Lori Martin	7/7/2004	2 nd Degree Murder	Jury Trial 3/3/06
Arapahoe	Virginia Rode	Ramon Ruiz	7/21/2004	Murder	Pled Insanity
Denver	Dorothy Allen	Raymond Allen	8/24/2004	Murder	Jury Trial 4/5/06
Jefferson	Jacklyn Oetker	James Armijo	9/22/2004	Murder	Preliminary Hearing 2/1/06
Jefferson	Tiffany McConnell	Keason Cox	9/27/2004	Murder	Motions—1/9/06 Jury Trial—5/2/06
Arapahoe	Laurie Lemay	Brian Lemay	10/17/2004	2 nd Degree Murder	Pled Guilty Sentencing—2/2/06
Denver	Sarah Heine	Robert Sandoval-Candelaria	11/22/2004	Murder	Motions—2/27/05 Jury Trial—4/19/06
Arapahoe	Quinton Johnson	Sheriece Hurd	11/27/2004	1 st Degree Murder	Jury Trial—1/3/06
Denver	James Gordon	Nancy Cummings	12/8/2004	2 nd Degree Murder	Pled Guilty Sentencing 1/20/06
Adams	Crystal Arguello/ Rayven Arguello	Damian Arguello	1/18/2005	1 st Degree Murder (2 counts)	Pled Guilty Life No Parole 2 Counts
Denver	Kanane Herron	Jeremy Ellerton	4/12/2005	Murder	Motions—2/7/06
Jefferson	Sigrud Matthews	Matthew Goddard	6/5/2005	Murder	Arraignment 1/23/06
Arapahoe	Lorraine Johnson	Eddie Johnson	6/12/2005	1 st Degree Murder	Jury Trial 3/28/06
Arapahoe	Denise Effland	Phillip Effland	7/30/2005	2 nd Degree Murder	Arraignment 1/13/06
Adams	William Giles	Elma Garcia	8/28/2005	2 nd Degree Murder	Motions—2/10/06 Jury Trial—3/20/06
Denver	Ana Goncalves-Toledo	Martin Navotny	12/13/2005	1 st Degree Murder	No date set

In September, the Colorado Attorney General's office responded to the Aurora City Attorney with a formal opinion based on the following question: "Does C.R.S. 18-1-1001, in particular paragraph (5) relating to the release of a defendant on bail following a charge of domestic violence, require municipal courts to advise a defendant of the existence of a C.R.S. 18-1-1001 protection order prior to that defendant being released on bail?"

The conclusion was: "No.... Because a municipal ordinance is not a violation under this title, none of the provisions of that statute applies to municipal ordinances."

This response facilitated a change in the Aurora Municipal Courts to return to a policy that allows criminal defendants in domestic violence cases to bond out of jail without having to be advised by a judge.

As a condition of bond, defendants who are able to post are enjoined to not "threaten, harass, molest, intimidate, etc." the victim.

Minimum bond on DV cases is set at \$2,500, which is an increase from the prior minimum of \$2,000.

Protection Order Information & Procedures

	Adams County	Arapahoe County Aurora	Arapahoe County Littleton	Broomfield County	Denver County
Clinic Information:	TPO Prep Clinics: 9 am and 1 pm TPO Hearings: 11 am and 3 pm	TPO Prep Clinics: 9 am and 1:30 pm TPO Hearings: 11 am and 3 pm	TPO Prep Clinics: By appt., Tuesdays TPO Hearings: Between 8 am & 4 pm	TPO Prep Clinics: 11 am TPO Hearings: 1:15 pm	TPO Prep Clinics: 8:30 am TPO Hearings: Beginning at 9 am
Can those with open DR cases be heard in this courtroom?	Yes—TPO's & PPO's PPO's w/children defer to DR case for TC&C	Yes—TPO's PPO's transferred to DR case	Unsure	No	No
Do juveniles need an attorney to get a PO?	No, but must have parent/guardian present	No, parent/guardian must be present but cannot speak for child	Unsure	No, but must have parent/guardian present	No, but must have parent/guardian present
Can Defendant be served in open court if s/he is present, but there is no proof of service?	Yes	No	Yes	Unsure	Yes
Can a TPO request be heard outside the posted time?	No	Yes	TPO's heard all day, between 8 am and 4 pm	No	Yes
Firearms Advisory Made?	No	Reads what is on TPO paperwork only	Unsure	Reads what is on TPO paperwork only	No
Other	If DR case was filed in different county, TPO must also be filed there.			Civil PO's will be attached to criminal case if one exists	



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Our thanks to VAWA, the Colorado Women's Bar Association and Kwik Kopy Printing in Englewood, CO 303-934-6878 for making this publication possible.

Working towards justice for abused women and their children

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www.projectsafeguard.org

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Across the Country

In Arizona, the Maricopa County Attorney, Andrew Thomas, recently wrote an editorial vowing less plea bargaining in higher level criminal cases involving domestic violence, as well as greater efforts to retain attorneys trained in this area. Additionally, legislation was recently passed that makes spousal rape punishable at the same level as the same act committed by a stranger.

Governor Edward Rendell signed Pennsylvania's Protection from Abuse Act and its amendments into law. The amendments will take effect May of 2006. The amendments expand the length of protection 18 months to three years, give courts the jurisdiction to consider children's safety and award temporary custody, specifically address firearms and standardize the procedures for returning the firearms to the defendant upon the conclusion of the order, and give law enforcement officers greater authority to follow through with the arrest of domestic violence offenders.

To opponents of the measure regarding firearm confiscation, Republican Representative and NRA Member Katie True responded, "If you are law-abiding and you have never threatened anyone with a gun, you don't have to worry about this law."

South Carolina's state legislature was considering tougher penalties and fines for people convicted of domestic violence. The bill, if passed, would also make domestic violence a felony if the defendant has two previous domestic violence convictions. Currently, an individual being charged a third time is charged at the misdemeanor level.

In Virginia, a law that requires those who want to purchase a gun to pass a criminal background check, does not apply to transactions by unlicensed vendors. Virginia is one of 32 states that do not require background checks for all gun sales.

Saying "it's too big a step after 130 years", Wisconsin Representative Gary Sherman said he would vote against a bill the state Senate passed that would end the ban on concealed weapons.

Opponents of the bill include the Wisconsin Sheriff and Deputy Sheriffs Association because permit information would be available only in the very narrow circumstances of a traffic stop.

A bill will be introduced in January in California to protect women who refuse to testify against their batterers.

A domestic violence victim in San Mateo County was recently held in contempt of court by the judge for refusing to testify against her ex-boyfriend, with a U.S. Court of Appeal granting an emergency stay the day she was scheduled to surrender to the jail.