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# Evaluation of Domestic Violence Advocates: 2007

July 2007

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**alaska judicial council**

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*July 2007*

**By: Alaska Judicial Council**

**For: The Alaska Court System**

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# Table of Contents

## Executive Summary

<b>Part 1 - Introduction</b> .....	1
A. Need for evaluation .....	1
B. Methods .....	1
<b>Part 2 - Interview findings and discussion</b> .....	3
A. Advocate effectiveness .....	3
B. Relationship between advocate and court staff .....	4
C. Advocate's service to different groups .....	5
D. Use of hearings on ex parte petitions .....	6
<b>Part 3 - Comparison of Anchorage civil protective petitions and hearings in 2006-2007, and in 2002, and in 2003-20042006-2007</b> .....	9
A. Changes in the distribution of outcomes for civil protective petitions filed .....	9
B. Advocate's role in the process .....	11
C. Cases referred to superior court for longer-term dispositions .....	12
D. Other factors potentially related to the reduction in long term orders granted ...	12
<b>Part 4 - Stakeholder and other suggestions</b> .....	14
<b>Appendix A - Interview Questions</b>	

## Executive Summary

The Alaska Court System asked the Judicial Council to evaluate parts of the court's domestic violence programs funded by the GTEA program.<sup>1</sup> The Council assessed the effectiveness of court-based advocates for petitioners in the protective order process, collected data about the civil protective order petitions filed in Anchorage, and interviewed practitioners about procedures for making decisions in the protective order process.

### Advocate Effectiveness

- Advocates served more female petitioners than other groups, but in most areas also served male petitioners, and some respondents.
- Generally, court staff said that advocates performed many tasks that court staff could not: they helped petitioners organize their materials for their petitions, calmed upset parties, referred parties to resources, and explained the court processes in detail. Court staff believed that advocates performed these tasks well and greatly benefitted the court and petitioners.
- In Anchorage and Kenai there were extended periods when the advocates were not present. Court staff missed their presence and encouraged their return.
- Relationships between advocates and court staff generally were good, although all stakeholders wanted regular meetings to work out problems. In some instances, lack of direction and guidance about the advocate's role led to misunderstandings. Court staff and advocates resolved concerns about the court's need to be perceived as neutral and impartial.

### Hearings on Ex parte Petitions

- The Council found that judicial officers at all locations decided some ex parte petitions without a hearing. Palmer decided almost all of its ex parte petitions in this fashion. Anchorage and Fairbanks decided some ex parte petitions without a hearing, and Kenai held hearings on most petitions.
- The reasons given for deciding ex parte petitions without a hearing included due process and statutory concerns (Palmer), time constraints (Anchorage), staff and space constraints (Palmer and Fairbanks), comfort and reduced trauma for the petitioners (Anchorage), and petitioner safety (Palmer).

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<sup>1</sup> Grants to Encourage Arrests, funded by the federal Department of Justice.

## **Anchorage Civil Order Petition Data for 2006-2007 Compared to 2002, and 2003-2004**

- Judicial officers granted a substantially lower percentage of long term orders in 2006-2007, when compared to 2002-2004. Judicial officers denied long term orders in 2006-2007 at twice the rate they did in the earlier years, and petitioners asked for dismissal of long term orders at higher rates than in 2002-2004.
- More respondents had attorneys at long term hearings; this may have been in part related to statutory changes that increased the consequences resulting from long term orders.
- There were no significant changes between the study periods in the overall number of civil protective petitions filed in the Anchorage court, and no significant change in the number of civil protective cases reassigned to superior court judges.

## **Suggestions for Improvements**

Interviewees suggested improving the process by:

- Having more advocates available, for more hours.
- Supplementing advocate work with a neutral manual about the civil protective order process, court resources, and other resources.
- Clarifying the advocates' roles, having a clear supervisory structure, and holding regular meetings with advocates and court staff to help resolve problems that arise.
- Providing safe and adequate space for the advocates and those whom they assist.

## Part 1

### Introduction

The Alaska Court System invited the Judicial Council to evaluate current court domestic violence programs, including the effectiveness of the domestic violence advocates in Anchorage, Fairbanks, Palmer and Kenai; the outcomes for a sample of civil protective order petitions filed in Anchorage;<sup>2</sup> and the reasons that petitioners gave for lack of attendance at scheduled long term hearings.

#### A. Need for evaluation

1. **Effectiveness of DV Advocates:** The Alaska Court System has funded the Anchorage DV advocate and facilitator positions for several years.<sup>3</sup> The Judicial Council evaluated the effectiveness of these positions in a report published in August 2005. In 2005, the court system funded new advocate positions in Fairbanks, Palmer and Kenai. The court asked the Judicial Council to evaluate the advocate positions to see how they helped the communities where they were located.
2. **Changes in the civil protective order processes:** The court asked the Council to review data and to collect new data that could help identify and explain any changes in the civil domestic violence process.
3. **Reasons for lack of attendance at scheduled long term hearings:** One of the findings from the 2002-2004 data was that a sizable percentage (29%) of all persons who filed ex parte petitions had scheduled a long term hearing but did not attend. The court and Council agreed that the Council should, if possible, find reasons why this phenomenon occurred.

#### B. Methods

1. **Interviews with stakeholders.** The Council replicated the interviews with stakeholders that it had conducted for the 2002-2004 study period, using a limited list of questions.<sup>4</sup> The contractor carried out twenty-five interviews, primarily by telephone, with stakeholders in Anchorage, Fairbanks, Kenai and Palmer.

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<sup>2</sup> The court began funding the advocate positions in November 2002 (advocate) and March 2003 (facilitator). The Council evaluated the positions, and reported data on outcomes in civil protective orders in its 2005 report, COURT INNOVATIONS IN DOMESTIC VIOLENCE CASES: EVALUATION REPORT, Alaska Judicial Council, August 2005. Available at the Judicial Council website, under "Publications," [www.ajc.state.ak.us](http://www.ajc.state.ak.us).

<sup>3</sup> Funds for the positions came through the Grant to Encourage Arrest program, in the federal Department of Justice.

<sup>4</sup> See Appendix A for interview questions.

2. **Data collection from civil protective order court case files in Anchorage.** Council staff replicated the data collection from Anchorage civil protective order files that was originally carried out in 2004.<sup>5</sup>
3. **Interviews with petitioners who scheduled a long term hearing but did not attend.** The Council worked with court staff in Anchorage, Fairbanks and Kenai to distribute forms for phone numbers and case numbers to each person who completed an ex parte petition. The purpose of the form was to contact petitioners who scheduled a long term hearing but did not attend, to see whether the court could improve service to this group. The Council asked the petitioners for a phone number and time that the Judicial Council could contact them to ask about their satisfaction with the civil DV process.

Court staff distributed the contact sheets with varying degrees of success. Altogether, about eighty sheets were returned to the Council from the three communities during an eight-week period.<sup>6</sup> Of the small number of Anchorage petitioners who met the criteria for interviews – that is, they had scheduled a long term hearing but did not attend -- only one was later available for an interview.<sup>7</sup> Problems with the methodology included an apparent belief on the part of some court staff that the petitioners didn't want to be bothered, and an apparent unwillingness on the part of petitioners to fill out the forms. This was an experimental method of contacting petitioners.<sup>8</sup>

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<sup>5</sup> Detailed information is available from the Judicial Council on request.

<sup>6</sup> During one week (February 25 - March 3, 2007) in Anchorage, 36 ex parte petitions meeting the Council's criteria for DV between intimate partners were filed and 11 contact sheets were collected. During another week (March 11 - 17, 2007), 43 ex parte petitions meeting the intimate partner criteria were filed and eight contact sheets were returned.

<sup>7</sup> Some forms were returned from Fairbanks and Kenai. None were requested from Palmer because of the different practices used there. Data about the number of ex parte petitions filed were not available outside Anchorage.

<sup>8</sup> Council staff research on similar methods used in different contexts with similar populations showed that these methods had worked well in some contexts and not at all in others. The Council and court believed that by making a relatively small investment of time and effort in this experiment, they could answer the question of whether it was likely to work. If it had worked, the court could have used the method to answer other questions about court processes by direct contact with court customers.

## Part 2

### Interview Findings and Discussion

The Council's contractor interviewed stakeholders about the court's concerns using very broad guidelines. Appendix A shows the set of questions with which she began the interviews. These questions were asked of each person with whom she spoke. If interviewees wanted to explore a topic further, she gave them the opportunity to do so.

The program was designed to give each community a great deal of leeway in deciding how it would use the advocate position. The Anchorage position had existed for several years, and stakeholders met regularly to refine the program and work out any problems. The programs in Fairbanks, Kenai and Palmer were put into place with relatively little training and guidance from the court's central office, or from the Council on Domestic Violence and Sexual Assault.<sup>9</sup> One Anchorage interviewee noted that "Other courts had this 'foisted' on them. . . . Bit of a setup for failure, in that clerks are used to doing their jobs, and are not sure how to share [with the advocate]." Some of the concerns expressed during the Council's interviews might be reduced by discussion among the stakeholders in each community, or by training for all of the communities with advocates.

#### **A. Advocate Effectiveness**

Advocates for civil domestic violence petitioners work in Anchorage, Kenai, Palmer and Fairbanks. In each case, a local women's shelter employs the advocate who works from office space in the court house. The programs differ. The Anchorage advocate has worked at her position since late 2002.<sup>10</sup> She works full time, and the Anchorage judicial officers, court staff and advocate meet regularly. The three advocates in other locations work part-time, have been employed since fall of 2005, and sometimes have not been at the courthouse regularly.

The advocate's job is defined and practiced similarly in all four communities. The advocate meets with petitioners to help them fill out the ex parte petitions. She (all of the advocates are female) explains the process to petitioners, helps them organize their materials for the petitions, tells them what materials would be useful to the judicial officer at a hearing, and reviews the forms with them to be sure that they are complete. She also offers emotional support, referrals to resources, and safety planning.

All of the current advocates help both male and female petitioners, and all will, on occasion, answer questions for respondents. Because a significant number of petitioners may also be the respondent in a different case, and vice versa, this type of assistance reflects the realities of the civil DV process. This aspect of the advocates' work has been controversial in the past, and is discussed in more depth below.

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<sup>9</sup> The Council on Domestic Violence and Sexual Assault, is a state agency housed in the Department of Public Safety through which all of the state's Violence Against Women Act funds are channeled.

<sup>10</sup> With the exception of a two-month break during a time when funding had expired and not been renewed.



In all of the communities, there has been an ad hoc quality to the development of the program. In the pilot Anchorage program, this flexibility was part of the project. The advocate was expected to meet with judicial officers and others, and to observe the process to see how she could best help. This worked well in Anchorage because the project scheduled (and continues) regular meetings for all of the stakeholders. This has worked less well in Fairbanks, Kenai and Palmer because meetings among stakeholders have been sporadic. Interviewees also were concerned that they did not know who the advocate's supervisor was, and had no way of expressing concerns or comments about the advocate's work. This remains an area that needs more attention by the court and shelters.

In all of the communities, when the advocate was on duty in the court house, stakeholders were pleased with her effectiveness. They believed that she helped petitioners file better organized petitions, and be better informed about what to expect from the process. Court staff were happy to have someone who could calm petitioners, and refer them to resources such as transportation. They were pleased that the advocate could take the time to explain the differences among the court processes such as custody orders, criminal prosecutions, and divorce/dissolution proceedings, and the civil DV process. They believed that the advocate may have helped to reduce "divorce by DV," or "custody by DV," phenomena in which petitioners make inappropriate use of the civil DV process to accomplish more permanent goals.

One substantial issue that arose was the actual presence of the advocate in the courthouse. In Kenai, where the advocate was not at the courthouse regularly for a long period of time, court staff were frustrated. They had enough experience with the advocate to understand the benefits to the court from her presence. The advocate did not work in the courthouse for some months because the shelter chose to use her time differently, and because of shelter administrative issues. The Council interviews suggested that the situation was being resolved, and the advocate was spending more time at the courthouse.

In Anchorage, the advocate left her position when funding was cut. She was gone for about two months until new funding was found. Anchorage stakeholders were universally thankful to have her back. They said that morale had suffered in her absence, and petitioners were not as well served.

Interviewees in all communities wanted advocates to work more hours. The Anchorage advocate worked full-time; court staff wanted similar assistance on evenings and weekends. In the other communities where the advocate served part-time, and was not present every day, court staff wanted full-time hours.

## **B. Relationship between advocate and court staff**

The advocate and court staff worked together smoothly in Anchorage. The advocate had been working from the courthouse since late 2002, and court staff met monthly with the advocate and others to improve their handling of cases. In the three newer locations, Fairbanks, Kenai and Palmer, tension between the advocate's position as an employee of a non-court organization (a women's shelter) that had very clear advocacy mandates, and the court's position as an impartial arbiter was an issue that many interviewees mentioned.

The advantages to having a non-court employee were that the advocate could offer types of assistance that the court could not. The advocate provided petitioners with emotional support, help with completing the petitions, worked with petitioners on safety planning, and referred parties to needed resources (transportation, child care, legal services). Advocates could explain in more detail than court employees how the DV process worked, and how it interacted with other court processes – criminal charges, custody cases, divorce and dissolution matters – that might be more useful to the parties than civil DV.

The disadvantages, as expressed by one interviewee, included “sheer and utter fear . . . because of [past experience with] people who were non-objective advocates . . . who would direct [petitioners] to fill out the forms in a certain way.”<sup>11</sup> Some court staff were concerned that the court would be viewed as less impartial because a non-court employee worked in the court building.

A more specific issue in Palmer, but not elsewhere, was contact between judicial officers and advocates. At one time, according to several interviewees, Palmer judicial officers and the advocate communicated to a limited extent about the petitions. At some point, an administrator in the Palmer court halted the practice, saying that it was a conflict of interest because the advocates were not court employees. Although some believed that the advocate’s perspective was helpful (e.g., letting the judge know that a particular case might be appropriate for a hearing), all contact was prohibited. Some still believed at the time of the interviews that the information shared could be appropriate and useful, while others believed that it was an inappropriate *ex parte* contact. At the same time, some judicial officers still wanted to know whether the advocate was involved in preparation of the case in any way.

### **C. Advocate’s service to different groups**

One of the most important issues, particularly in the newer locations, was the advocate’s willingness and freedom to work with different parties to civil DV litigation. In Anchorage, stakeholders had worked out policies over the four-year period of the advocate’s employment. The advocate served primarily the female petitioners, who were the majority of the court’s petitioners. She also served male petitioners, and respondents on occasion. A significant number of respondents may also be the petitioners in different cases, and vice versa, so this type of assistance reflects the realities of the civil DV process. The advocate also noted that the court is concerned about maintaining neutrality and impartiality, so that it is important to serve all groups.

Palmer practitioners expressed similar comfort with the advocate serving both men and women, and some respondents. Stakeholders said that the advocate helped both male and female petitioners, and sometimes respondents. One noted that the respondent might have been the actual victim, but was slower in getting to the courthouse. Another said that male petitioners tended to be in emergency situations less frequently, and that stakeholder perceived less need for the advocate’s services in a non-emergency situation.

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<sup>11</sup> Another interviewee said that some defense attorneys saw the advocate as being given “preference by the DA s.” In that community, apparently, the DV advocate occasionally also assisted victims in criminal DV cases.

In Kenai, stakeholders believed that most of the advocate's clients were female. They said that they served males also, both in the context of the shelter, and with the advocate at the courthouse. Philosophically, they seemed to agree that the services should not be limited just to women.

The Fairbanks situation appeared different. An earlier advocate in Fairbanks had established a firm policy of not serving men. She and others believed that the grant terms did not permit it. They also believed that the grant did not permit help to respondents. More recently, the stakeholders modified their position to permit help for male petitioners, and for some respondents, help at the courthouse. The shelter policy continued to focus on advocating for women. Stakeholders estimated that as many as 30% of the petitioners were male, a higher percentage than in other communities.

Where there were differing views about the advocates serving males, whether petitioners or respondents, some of the difference appeared to stem from shelter policies. All agreed that the shelters had a right to establish their own policies, and most believed in most communities, that the shelters advocated primarily for women. These shelter policies may have carried over to influence the advocate's services at the courthouse.

#### **D. Use of hearings on ex parte petitions**

Another issue that the Council explored at the court's request was the question of whether judicial officers held hearings on every petition. During the planning stages of this project, the court advised Council staff that judicial officers in Palmer had a policy of not holding hearings on ex parte petitions. Rather, the Palmer judicial officers decided most petitions based on the written statements from the petitioner. After conducting interviews in all four communities, the Council found that this practice occurred in other communities, particularly in Anchorage.

The stated reasons for limiting the number of hearings on ex parte petitions varied by community. Anchorage judicial officers said they preferred to decide on the petition papers only, for most cases. They believed that it was faster. A decision on the written petition without a court appearance could reduce trauma for the petitioner because it did not require the petitioner to testify on the record in court.

Judicial officers in Fairbanks also made decisions based only on the written petition without an ex parte hearing. The practice appeared to be related to staff shortages for in-court hearings. Fairbanks practitioners said that hearings were more often held in cases in which child custody was an issue, or in which the respondent could be excluded from the family residence.<sup>12</sup>

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<sup>12</sup> Practitioners outside Palmer were not asked directly about the issue. The Anchorage and Fairbanks stakeholders who discussed it did so spontaneously. Only one indirect reference was made in the Kenai interviews. That comment suggested that ex parte hearings were not held in Kenai in every case.

Palmer judicial officers held ex parte hearings very rarely. Their stated policy was to make their decisions based on the written materials alone. They offered several reasons for this:

- “The law says there should not be a hearing; the decision should be based on the petition.”
- “Holding a hearing denies due process to the respondent.”
- “It is safer for a petitioner to have only a written [order] . . . because the respondent knows that there has been no hearing, the petitioner will not feel as cowed by the situation . . . .”
- “The petitioner has a safe chance to express themselves in writing.”
- “[There is] no mention of an ex parte hearing [in the law] and the canons say that judge cannot have a hearing in the absence of specific legislative authority.”
- “Palmer does not have the staff or space to offer hearings on most petitions.”

Palmer stakeholders said that there might be a hearing under the rarest of circumstances, giving as an example a petitioner who was functionally illiterate and unable to prepare a written petition. Palmer interviewees believed that the ex parte decisions were perhaps being made with the benefit of more information about the case than was available in other communities. They noted that in every case, court staff accumulate information about both parties and all other prior or pending court cases. Judicial officers had available divorce or dissolution files, past civil and criminal DV cases, child custody files, and all other related information, in addition to the petition for the ex parte order. In fact, Anchorage judicial officers prepared for hearings using most of the same information that was available in Palmer.<sup>13</sup>

Stakeholders in Palmer asked the Commission on Judicial Conduct in September 2006 for an advisory opinion about holding ex parte hearings. The Commission responded that “Whether any given statute expressly authorizes a particular communication, is a matter of statutory interpretation that our Commission will not provide.” The letter continued on to say, “In this situation as I understand it, the vast majority of state court judges have read the statute to allow ex parte hearings on the ex parte petitions.” The Commission suggested that because so many judges read the statute the same way, “it seems to have been established as a reasonable interpretation.” Litigants could still challenge that interpretation, said the letter. One stakeholder believed that holding ex parte hearings based on the letter’s comments would still leave individual judges open to litigation or Conduct Commission proceedings because the statute had not been revised to explicitly permit ex parte hearings.

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<sup>13</sup> The question was not asked directly in Fairbanks, Kenai and Anchorage, and Kenai and Fairbanks practitioners did not discuss the issues spontaneously.



### Part 3

#### Comparison of Anchorage civil protective petitions and hearings in 2006-2007, and in 2002, and 2003-2004

The Council repeated its 2002-2004 collection of information about the outcomes for civil protective order petitions filed in Anchorage and long term hearings in those cases, using a sample of cases from 2006-2007.<sup>14</sup> The Council wanted to answer several questions:

- Had the distribution of outcomes for civil protective petitions filed changed between 2002-2004 and 2006-2007?
- If there were changes, did the advocate play a significant role in bringing them about?
- Interviewees suggested that more civil DV petitioners were being referred to the superior court for longer term dispositions. Did the data confirm that hypothesis?
- What factors might help to account for observed changes?

#### **A. Changes in the distribution of outcomes for civil protective petitions filed**

Figure 1 shows that overall, very little changed in the processing of civil DV petitions between 2002, 2003-2004, and 2006-2007.

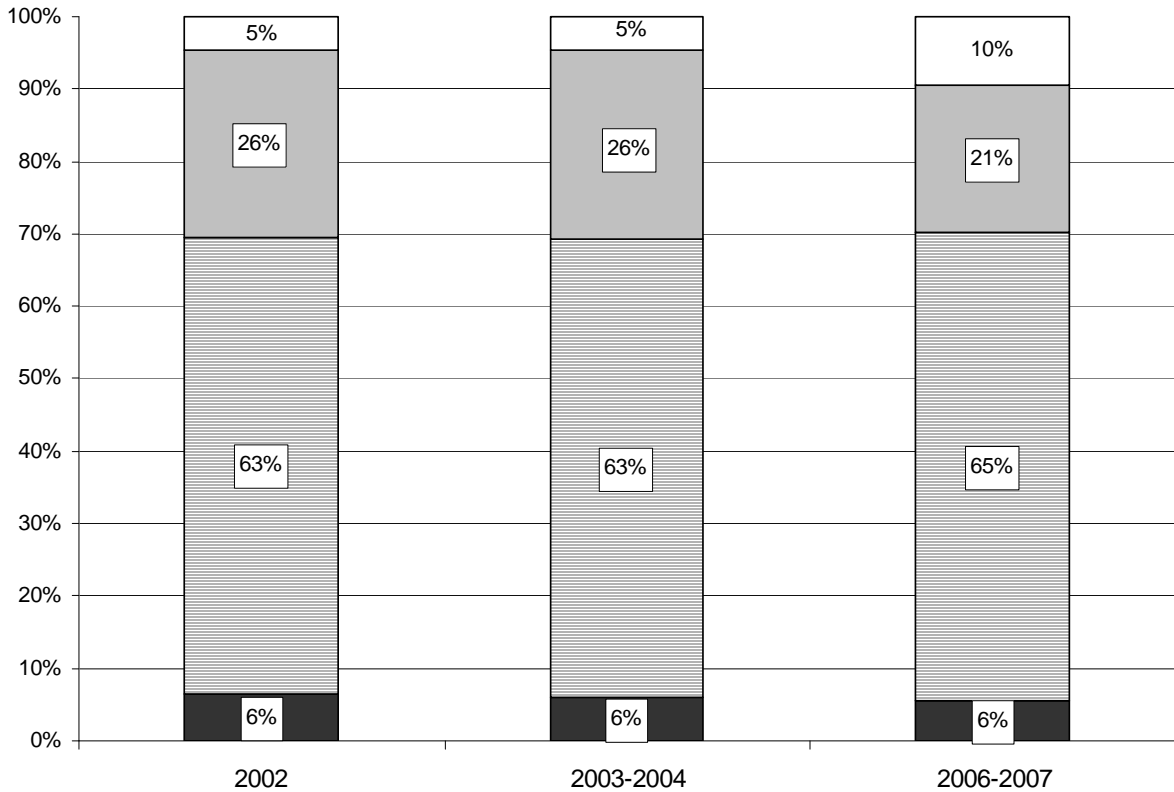
- In each period, about 6% of the ex parte petitions filed had no further action after the filing.
- During the first two periods, 63% of the petitions that had an ex parte hearing or decision did not go past the ex parte stage. Petitioners did not schedule a long term hearing or did not go to a long term hearing, or if they went to a long term hearing, they asked to have the petitions/orders dismissed. In the most recent period, 2006-2007, 65% of the petitions did not go past the ex parte stage. The slight increase was probably not significant. It was probably due to a sizable increase in the number of petitioners who appeared at the long term hearing and asked to have their petitions dismissed.
- Judges denied 5% of the long term orders requested in 2002 and 2003-2004; and 10% in 2006-2007. This was the most significant change that occurred.
- Judges granted fewer long term orders, 26% in 2002 and 2003-2004, but 21% in 2006-2007.
- Respondents had attorneys at substantially more long term hearings in 2006-2007 (26% of cases with a long term hearing) than they did in 2002-2004 (15% of the cases with a long

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<sup>14</sup> Statutes permit protective orders for a variety of situations. Because of the funding source requirements, the Council looked only at protective order requests in intimate relationships. The Council did not review requests for protective orders against stalking because stalking protective orders in Alaska were not available if the petitioner and the respondent were related, had dated, been married, or lived together. Also excluded were protective orders in domestic relationships did not involve intimate partners, but that involved other parties, e.g., parent-child, siblings, and so forth. A memo detailing the data collection and analysis is available from the Judicial Council on request.

term hearing). If the respondent's attorney was present, long term orders were granted at fewer long term hearings in 2006-2007 (39%, as compared to 47% overall). This was consistent with the findings from 2002-2004. Practitioners agreed that the presence of attorneys at hearings affected the outcomes, often making it more likely that the petitioner would request dismissal.

**Figure 1: Comparison of Anchorage Cases**



	Long term order denied at long term hearing
	Long term order granted at long term hearing
	No long term hearing, or petitioner requested dismissal at long term hearing
	Petition filed, no ex parte decision*

\* The 6% of petitions with no ex parte decision included petitions in which the petitioner requested dismissal, petitions that were vacated, emergency orders, and petitions for which the petitioner did not appear at the ex parte hearing.

Additional data showed other points of interest. If the long term order was denied, in 50% of the cases, the ex parte order also had been denied. If the long term order was granted, in 6% of the cases the ex parte order had been denied.<sup>15</sup>

About 47% of petitioners either did not appear at a long term hearing that had been scheduled, or when they appeared, they asked for dismissal of the order. In 27% of these cases, the ex parte order had been denied; in 73% of the cases, it had been granted.

## **B. Advocate's role in the process**

One hypothesis for the increase in the denial of long term orders, and the increase in petitioners requesting dismissals at the long term hearings, was that the advocate had helped petitioners write ex parte petitions that were effective under the limited scrutiny at an early stage, but could not withstand review at the long term hearing. One way to test this hypothesis was to determine how many petitioners the advocate assisted each month.

Data provided by AWAIC<sup>16</sup> to the court for grant monitoring purposes showed that the advocate assisted an average of 22 petitioners each month, or about six per week.<sup>17</sup> The average number of petitions for civil protective orders filed<sup>18</sup> was about 37 per week. Thus the advocate, on the average, assisted about 16% of the intimate partner petitioners in Anchorage each week.

The advocate was not always available to assist a petitioner, because she was already helping another petitioner. Some petitioners, according to interviewees, did not believe they needed assistance. Others may have been through the process before and felt that they understood their choices and resources well enough. Because of the relatively small percentage of petitioners assisted by the advocate, it is not likely that the hypothesis could explain all of the change that occurred between 2003-2004 and 2006-2007.

As the interview section above noted, the advocate was considered a valuable asset to the civil protective order process. The reason for using both interviews and data to evaluate the project was that neither method provided enough information by itself.

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<sup>15</sup> Data were available for 326 of the ex parte petitions reviewed in Anchorage in 2006-2007. Overall, 30% of the ex parte petitions were denied, 64% of them were granted, and 6% had another outcome (e.g., the petitioner did not appear at the hearing). Because the data were collected differently in 2002-2004, there are no comparable data for that period.

<sup>16</sup> AWAIC, Abused Women's Aid in Crisis, supervised the court-based civil DV advocate in Anchorage.

<sup>17</sup> This was during the six-month period between July 1, 2006 and December 31, 2006. The highest number served was 39, and the lowest number served was seven. The total for the six months was 132.

<sup>18</sup> This is the number of petitions that involved intimate partners, the target group for the advocate's assistance.



### **C. Cases referred to superior court for longer-term dispositions**

A second hypothesis offered by interviewees to explain the reduction in long term orders granted was that more cases were being referred to the superior court for longer-term dispositions. These could have included cases with children in which a superior court judge could make a custody decision that was more permanent, or a divorce or dissolution of marriage.

The court reviewed its CourtView<sup>19</sup> records for FY04 (July 1, 2003 to June 30, 2004) and for FY07 (July 1, 2006 to June 30, 2007). It found that 253 civil DV petitions were reassigned to superior court judges in FY04, and 258 were reassigned in FY07.<sup>20</sup> The court records do not provide any evidence for a substantial increase in the numbers of civil DV cases reassigned to superior court.<sup>21</sup>

### **D. Other factors potentially related to the reduction in long term orders granted**

During the first review of the data, the practitioners interviewed suggested several hypotheses for the decline in long term orders granted. Some believed that more cases with children or more cases in which respondents appeared at the long term hearings might explain the differences. Others suggested that the presence of attorneys for respondents at long term hearings might be the key. Several suggested that changes in the judicial officers, and the ways in which they were assigned to cover long term hearings might account for the changes. Finally, interviewees mentioned statutory changes that they thought affected the long term hearing decisions.

The Council had data from 2002-2004 about the presence of children in the case, the presence of respondents at long term hearings, and the presence of respondents' attorneys at hearings.<sup>22</sup> Staff returned to the Anchorage case files in the sample and recorded information about each of these variables for the 2006-2007 cases. It also talked again with Anchorage practitioners about the findings that the presence of respondents or children did not seem to change between 2002-2004 and 2006-2007. The presence of respondents' attorneys increased noticeably, but not enough to account for all of the changes in how requests for long term orders were handled.

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<sup>19</sup> CourtView is the court's automated case management system.

<sup>20</sup> In FY07, all but about the last three weeks of the fiscal year were available for review, so the number may be slightly higher on June 30, 2007.

<sup>21</sup> The court also provided its own analysis of civil DV cases filed between FY04 and FY07. It showed 3,479 filings in FY04 (about 185 were stalking, and some unknown other number were not intimate partners). In FY07, the number was 3,838 (about 723 stalking, and an unknown number of non-intimate partner relationships). In other words, the number of all civil protective order requests has remained unchanged or diminished slightly.

<sup>22</sup> The Council did not have data from 2002-2004 about the identity of the judicial officer hearing the case. Because it did not have appropriate comparison data, it did not collect information about the identity of the judicial officer from the 2006-2007 data.

- About the same percentage of petitioners with children went to long term hearings in 2006-2007 as had gone in 2002-2004. There were no significant differences between the study periods in how the cases were handled.
- Respondents were present for slightly more long term hearings in 2006-2007 than had attended in 2002-2004. The differences were not significant, and the presence of the respondent did not appear to substantially affect the way that petitions were handled at the long term hearings.

The practitioners re-interviewed suggested again that the identity of the judicial officer at the hearing might be an important factor in explaining differences between the two study periods. They mentioned two statutory changes that they believed also might affect both judicial decisions and petitioners' willingness to ask to have the orders dismissed:

- In 2004, the legislature extended the length of the long term protective order effectiveness from six months to one year. Some of those interviewed believed that petitioners were more reluctant to ask for one-year protection than they had been to ask for six-month protection.
- The legislature passed HB385, effective in July 2004, which, among other provisions included a rebuttable legal presumption that a finding of domestic violence should bar future visitation and custody. Some interviewees believed that petitioners were taking the provision into account, and were more reluctant to ask for a long term protective order with such serious future consequences. They also believed that judicial officers might take the consequences of HB385 into account, and be more reluctant to issue protective orders that could affect custody and visitation decisions permanently.

The judicial officers interviewed did not agree with each other on the relative importance of HB385 and the increased length of the order. One thought that the increased length of the protective order was more important than HB385, saying that HB385 created a rebuttable presumption that could be overcome in superior court actions. Another thought that HB 385 was more important, and a third did not have experience handling cases before and after the changes, so did not comment.

Stakeholders said that petitioners gave reasons for the increased denials and dismissals that included:

- "We're trying to work things out;"
- "It's bad for the kids;"
- "It's inconvenient;"
- "I didn't tell the truth at the ex parte hearing;" and
- "I don't need the order now, he's behaving."

The combined data from the case files, and the additional interviews suggested that the changes perceived in the data were likely to be real changes, and not artifacts of data collection. The interviews suggested that explanations other than those that could be tested with data might account for many of the observed changes in DV data processing.

## **Part 4**

### **Stakeholder suggestions to improve the process**

The persons interviewed made the following proposals to improve advocate effectiveness:

- Have advocates available daily at regular hours.
- Add advocates for evening and weekend hours in Anchorage, and possibly in Palmer and Fairbanks.
- Clarify the advocate's roles, so that the advocate, court staff and judicial officers are not confused about who is served, or about what advocate is allowed to do.
- Have a clear chain of command so that advocates, court staff, and judicial officers know who is in charge of the program.
- Meet regularly with court staff, judicial officers, advocates, and advocate supervisors (monthly meetings were suggested), to improve communication, reduce territoriality, and give opportunities for making improvements in the programs.
- Provide adequate and safe space for the advocate's office, that is easily accessible from clerk's office and courtrooms.
- Provide a neutral manual explaining the DV process that would be available to all parties.

**Appendix A**  
**Interview Questions for Practitioners**



## **Interview Questions for Domestic Violence Advocate Project Stakeholders**

1. How long have you been working with domestic violence cases?
2. What were your expectations of the advocate's role?
3. Who is using the advocate's services? Petitioners? Respondents? Men? Women? In your experience, do some people use the advocate services more than others? What characterizes these people? How do they differ from those who do not use the advocate services? Are people more or less likely to use advocates' services if they have been involved in the civil DV process more than once?
4. Do you think that people asking for DV protective orders are communicating with the court differently because of the advocate's work? [Probe: How? Better organized petitions?]
5. Do petitioners ask for services that the advocate cannot provide? Are there other sources for these services to which petitioners are directed?
6. Are there any physical barriers to petitioners wanting to use the advocate's services?
7. What do you see as the most significant outcome or result of having the advocate?
8. Do you have suggestions for changing the program in any way? Are there ways in which the advocate's services could be more effective, if used in collaboration with other agencies or groups?

### **Anchorage**

9. We also have a couple of questions about petitioners' attendance at long term hearings. What were the reasons in the past for petitioners to not go to long term hearings? Has the pattern of people not going to long term hearings changed since 2004? If yes, are there different reasons now why petitioners don't go to long term hearings?

### **Kenai/Fairbanks**

10. Anchorage data from 2003 and 2004 showed that many petitioners did not go to the scheduled long term hearings. What has been your experience with petitioners going to long term hearings? Is it different today than it was a few years ago? [If yes, how has it changed? ? Do you have any ideas about why it has changed?] Does the presence of the advocate change the number of people going to long term hearings? [If yes, how has the number changed?]

## **Palmer**

1. How long have you been working with domestic violence cases?
2. What were your expectations of the advocate's role?
3. Do you think that people asking for DV protective orders are communicating with the court differently because of the advocate's work? [Probe: How? Better organized petitions? Other?]
4. Do you think that having an advocate in Palmer helps the court handle civil protective order cases better? What are your reasons?

### **Questions for Palmer Judges:**

5. Judges in Palmer tend to review the written petitions for ex parte civil protection orders, and to make their decisions about whether to grant or deny the petitions based on the written work without a hearing. This is a different practice from that required by the legislature. Is this your practice? If yes, please share with us your reasons for handling ex parte petitions this way.
6. Did the Commission on Judicial Conduct letter issued last September affect your thinking about your ability to conduct ex parte hearings?
7. While judges in Fairbanks grant 85% of the ex parte petitions that come to their attention, judges in Palmer grant 35% of the petitions. Why do you think that petitions are granted at differing rates in the different communities? Do you see any problems if judges in one community handle similar cases differently than those in other communities? If so, what should be done to achieve more consistent handling of DV cases statewide?
8. Do you have any suggestions for improving the handling of DV civil protective orders in the Palmer court?

### **Questions for other Palmer Interviewees:**

9. Who is using the advocate's services? Petitioners? Respondents?
10. In your experience do some people use the advocate services more than others? What characterizes these people? How do they differ from those who do not use the advocate services? Are people more or less likely to use advocates' services if they have been involved in the civil DV process more than once?
11. Please describe the process for getting an ex parte protective order in Palmer. Who helps the petitioners complete the forms? Do petitioners wait in the courthouse for a decision on the protective order? Do some judges hold hearings on ex parte petitions and others not? About how much time elapses between the time a petitioner comes to fill out the paperwork and the time the petitioner receives a decision on whether an order will be granted?
12. Do you have any suggestions for improving the handling of DV civil protective orders in the Palmer court?