



SPOTLIGHT ON PROMISING PRACTICES AROUND CIVIL PROTECTION ORDERS:

DeKalb County Compliance Review Docket

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AN INTERVIEW WITH
**CHIEF JUDGE
BERRYL ANDERSON,**
DEKALB COUNTY MAGISTRATE COURT



CIVIL PROTECTION ORDERS CAN BE A POWERFUL REMEDY FOR VICTIMS OF DOMESTIC AND SEXUAL VIOLENCE AND STALKING.

However, when orders are not enforced, they can seem like nothing more than a piece of paper. Ensuring compliance with orders often falls on the shoulders of the victim/petitioner either to call law enforcement or to go to court to initiate an often complicated contempt procedure. Some courts have chosen to take a more active role in making sure that victims are kept safe and that respondents succeed in complying with the conditions of the court's orders. One such innovative court is the DeKalb County Magistrate Court, which implemented an entire calendar for compliance review of their Family Violence Protective Orders, which includes compliance with conditions for intervention classes and weapons surrender.

DeKalb County Magistrate Court has served as an Office on Violence Against Women (OVW) designated mentor court since 2014 and has been a grant recipient for specialty court projects to better serve victims of domestic violence and those suffering from mental illness, including veterans.

JUDGE BERRYL A. ANDERSON was sworn in as Chief Judge of the DeKalb County Magistrate Court in 2010, after having served 10 years on the magistrate court bench. As Chief Judge, Judge Anderson manages the criminal, civil, and ordinance divisions of magistrate court and the pre-trial services office. Judge Anderson has been recognized many times for her contributions not only to the legal profession, but also her community. In September 2018, Judge Anderson received the American Judges Association's Libby Hines Domestic Violence Award. Judge Anderson has trained judges, attorneys, and advocates across the country on issues of family violence, stalking, elder abuse, supervised visitation, and cyber violence.

THE FOLLOWING INTERVIEW WAS CONDUCTED BY STEPHINE BOWMAN ON FEBRUARY 19, 2020.

STEPHINE BOWMAN: Can you tell me a little bit about your compliance review docket and how it came to be?

JUDGE BERYL ANDERSON: The compliance docket became operable in July 2011. In 2010, I actually went undercover, if you will, and did a walkthrough of our civil protection order (CPO) application process - we call them family violence protective orders. I decided that I would walk through the process through the lens of a victim who was coming to the court to make an application for a protective order. That opened my eyes in many ways and showed me some of the parts of our process that were not so seamless. Before walking through the process, I thought that the process that we had in place was a very good process, but it let me know that there were some gaps in our system and gaps in our process. I got some special training from the National Council of Juvenile and Family Court Judges and it just gave me an opportunity to look at how we handle domestic violence cases differently. So, in addition to making some other changes, we realized that there were protective orders being entered by the court and they really had no teeth.

Under Georgia law, respondents who received a 12-month family violence protective order are ordered to take a 24-week family violence intervention program class. I know they call them batterer intervention program classes in other places, but in Georgia they are called Family Violence Intervention Programs - FVIP classes for short. And, so, the judges were entering these orders and there was no way of monitoring whether or not respondents were actually taking the classes. If they took them, great; if they didn't then there was no mechanism in place to ensure that they were actually doing that.

There was also a gap under federal law. If you have a family violence order entered against you, you cannot possess any firearms or ammunition and there was no way of making sure that was happening either. So, it was an opportunity for us to try to deal with all of these issues.

Several weeks after I became Chief Judge of the court in May of 2010, all 10 divisions of the DeKalb County Superior Court decided that, based on my experience with handling domestic violence cases, they felt comfortable in having magistrate court handle all of the protective orders. That was really huge because it was an opportunity for us to have some consistency, to deal with domestic violence cases in a systematic way, and to get specialized training for all of the judges that were handling these cases. It also gave advocates, other stakeholders, and community partners an opportunity to come to one courtroom. When you had seven or eight superior court judges calling the advocates from one courtroom to another, it was a little bit confusing and definitely taxing on the advocates having to run around to the different divisions of superior court. So, when it came to the magistrate court, it was all in one courtroom.

SB: Why should courts hold compliance hearings in protection order cases?

JUDGE ANDERSON: 1. It increases safety for victims. 2. It holds respondents or batterers accountable. It also sends a message that the court is watching, and the orders are not just a piece of paper, they are being monitored and it matters.

And I won't be so naive as to say that the process is easy for all courts - I mean it requires additional resources for that and - well, money - money and resources because you have to have an additional calendar if you're doing a stand-alone calendar. We have a stand-alone calendar, so the only cases in the court room heard at that particular time are our compliance cases.

I think it sends a strong message that the court is watching [and] that these cases are important enough to have a stand-alone calendar. It [also] requires the resources, obviously, of your clerks, your judges, other stakeholders, advocates, or anyone else participating in the case, but it's worth it.

SB: Are all cases set on the compliance review calendar and if not, how do you choose what cases are set on the compliance calendar?

JUDGE ANDERSON: Georgia law requires individuals or respondents, who have been issued a 12-month protective order, to take the family violence intervention program classes and that requirement is not for respondents in stalking cases. Most of the stalking cases we see are dating violence type cases or neighbor cases and so those cases are not on the calendar. We only have those where a family violence order has been entered and then we can deal with the 24-week FVIP classes, surrendering the weapons, and any other alternative treatments that may be required

SB: Are there any considerations for judges to think about when they're crafting their orders to make them more enforceable? Georgia law around the FVIPs is pretty set out, but is there anything around the firearms or any other provisions that you think are important for judges to consider?

JUDGE ANDERSON: Yes, I think it's important when judges are crafting orders that [they] not put in too many conditions. I think it's important

that you keep in mind that you want people to succeed. We want the respondents to succeed. What I mean by succeed is to complete these 24-week mandatory classes, surrender the weapon, and not violate the order. I think if you put in too many other conditions then you are sort of setting them up to fail. You're keeping in mind that every respondent that presents before the court, all of them, present differently. Some of them have more complicated issues, some of them are homeless, some of them, in addition to having the protective order entered against them, may be suffering from mental illness - that's a huge challenge that we've been having - some may

have substance abuse issues. When the judges craft these orders, you want to make sure that you're not stacking on too many conditions and that you are thoughtful and deliberative about what you are trying to accomplish.

SB: When you have your compliance review hearings, how do you get the information you need in front of you?

JUDGE ANDERSON: Well, we are very fortunate. We have an

Office on Violence Against Women grant that allows us to have a full-time compliance officer, and the respondents are required to come to court every two weeks. Also, in the off weeks that they're not in court, they have to make a phone call and check in with a compliance officer. [The compliance officer] is responsible for making sure that they attend the classes. If [respondents] are not attending the classes, [then] that information is shared with [the compliance officer] from the FVIP providers. They're responsible for providing information on not just attendance, but also participation. So, if there's a respondent who's

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not participating in class or showing up late to class, [then] that information is shared with our compliance officer.

In the courtroom you have the respondent, the compliance officer, and the judge. But, the victim's voice is also in the room because if there are some dangerous practices or violations of the order or something [else] happening, the victims can get information to the advocates, the advocates can reach out to the compliance officer and that's how we have that information in court.

I also want to point out that we have a domestic violence coordinator who, before every domestic violence calendar, will actively do a search to make sure that none of the parties before the court have a new case, whether it's a criminal case or civil case, so she'll search the docket for that.

SB: Do victims ever attended hearings?

JUDGE ANDERSON: You know, early on in 2011, it was a unique animal that nobody really knew what to expect. Victims didn't really know what to expect and so that was a cue for me to make sure that the opening spiel or instructions of the court were very clear about what the purpose of this calendar is. All court proceedings in Georgia are open proceedings, and victims have an absolute right to come into the courtroom if they wish, but it really is about the respondent, the judge, and the compliance officer.

It took a little while, maybe two or three months, for that message to spread out into the community for attorneys. The attorneys started looking at it as a good thing that their clients are taking these classes, and it may be helpful for them to complete the classes. It would show any other court that at least they were compliant and they're trying to attend the classes and making efforts and making steps in the right direction.

For victims, the advocates also did and continue to do, I believe, a very good job of explaining what the purpose of the calendar is and many of the victims want to go their separate ways. Others may want the court to fix [respondents] and think it's important for them to take the classes, but it really is about the respondent and not so much about victims. So, it is very, very rare that a victim will come into the courtroom. We've been doing this now for [nine years].

SB: What sort of sanctions might be utilized in a compliance review hearing?

JUDGE ANDERSON: I think the reason we're pretty successful is that as soon as that order is entered in an open court, the respondent walks out of the courtroom and walks into a room with our compliance officer. They immediately get information about signing up for an FVIP class, and if the weapon was not seized when the order was entered, then they'll get information about surrendering the weapon to our DeKalb County Sheriff's Office. I have to commend them for being willing to take the weapons, to house the weapons until there is an order from our court that says that the respondent can have that weapon back. And that's after we have a full-blown hearing to determine whether or not they're eligible to have that weapon back.

I think the sanctions, if you will, range from very, very small to something as simple as having show cause hearings before the court to show cause why they should not be held in contempt, and obviously there has to be a finding that they're willfully in contempt, that they are willfully refusing to take the classes. That happens for different reasons and most of the findings are not willful. If it is willful, then the court has the authority to order them to serve up to 20 days in custody. Or, it could be that they have some other sanction, that may be sitting in the jury box and having their case heard at the very end

of the calendar. Another sanction could be that they are ordered to participate in a job search. DeKalb County has a very long-standing policy, and I think it's a good one, that you should not be locking people up if they have demonstrated an inability to pay. It's just not the right thing to do and so that is the culture in DeKalb. First and foremost, we have to have a hearing to find out why they've not taken the classes. The biggest issue is not taking the classes.

The weapon surrender actually has not been a big issue. During the opening instruction the judge tells the respondent that if an order is entered, he or she cannot possess a firearm or ammunition. After the order is entered, the judge repeats that possession of a firearm or ammunition is prohibited. You keep sending the message over and over again. They get paperwork from the compliance officer telling them how to go about surrendering the weapon, and so we have very little, that we're aware of, not complying with the surrendering of a weapon. We know that that's federal law, but we want to make sure that we are engaging in best practices by seizing on the front end or having respondent turn over any and all known firearms.

Early on, we learned that those respondents who are not taking the classes, for the most part, it's because they just don't have the finances to take those classes. Many respondents find themselves unemployed after the order is entered or they may be homeless after the order is entered because

they have to vacate the premises if they were living with the petitioner. We worked with the Georgia Department of Labor and the DeKalb County Workforce Development so that we could order the respondent to go and actually do a job search a couple times a week at those two agencies. We were very successful in having some of the respondents actually get pretty good jobs through DeKalb Workforce Development and the Georgia Department of Labor and so that's where the power of the order comes in. I think it's the court's role to help get them on track and one way to do that is to actually order them to go and do the job search, and they have to show proof of the

job search to the compliance officer. That's something that's been very helpful and just another tool in our toolbox. Ultimately, it works out for [the respondent's] benefit when they become gainfully employed or get a better working situation because then they start taking the classes, they come to compliance court, they've got their shoulders back, they're proud because now they have a job, and they're taking the classes and learning some

strategies and techniques to help them going forward. It really is a win-win for everyone.

I also want to point out that some of the respondents present with mental illness or severe alcohol and drug addiction. Another tool in our toolbox, in lieu of taking the 24-week classes, is to order the respondent to get some help for their mental illness, alcohol, or drug addiction. We work with the Veteran's Administration (VA) and the DeKalb County Community Service Board and order them to go there for mental health

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treatment or other drug or alcohol treatment. Once they're stable, then we can send them to the FVIP classes. Some of them are at a point where they're never stable, but we've got them under the order for 12 months, and they are able to get treatment for their mental illness or addiction.

SB: How do you see your docket impacting your community?

JUDGE ANDERSON: I think the impact in our community is that it's creating safer communities. Anytime the court's in a position to make sure that any known weapons are surrendered, it's keeping victims and communities safe while that order is in place. It's sending a message to the respondents that the court is watching. They have to come back to court every two weeks - if they're not on track. Once they get on track, then they're given an opportunity to come back to court maybe once a month or every five or six weeks, and so I think it sends a message that these cases are serious cases and that the court is holding them accountable.

SB: So, this has been a nine-year process so far?

JUDGE ANDERSON: Yes.

SB: What stakeholders did you find were essential to starting your compliance review docket?

JUDGE ANDERSON: It is really, really, really important to have the right people at the table. In DeKalb County, we are very fortunate because we are resource rich, and I know that every community cannot say that they're resource rich. We have the great benefit of having some very long-term partnerships with the advocates in our community. The [Women's Resource Center to End Domestic Violence, Tapestri](#), which provides advocacy for all non-English speaking victims, and also the women at [Caminar Latino](#), which represents Latino victims, and [Men Stopping](#)

[Violence](#) as well; we had a relationship with those agencies already. It took us a while to plan this. I wouldn't suggest that anyone just jump into it and say, "oh I can set this up in in two months or three months." It took about nine months of planning and meeting on a bi-weekly basis to figure out not only the key stakeholders, but the role of each stakeholder. We had to do some research. We took a look at other jurisdictions. We had to figure out what forms we needed. We needed to figure out how often we needed to have the calendar. We had to ensure that all judges that were hearing these cases had the specialized domestic violence training at the [National Council \[of Juvenile and Family Court Judges\]](#). There are two courses, Enhancing Judicial Skills in Domestic Violence Cases and then Continuing Judicial Skills in Domestic Violence Cases, [which were] really important.

Another partner that comes to mind is [Nia's Place](#), which is actually Georgia's first supervised visitation and safe exchange center. It's literally a couple of blocks from the courthouse. It was really important to take a look at what we have in place, to figure out what our ultimate goals were, [and] to figure out the firearms piece.

It was also important to reach out to the FVIP providers. There are probably a couple dozen in metro Atlanta. The court cannot refer someone to a particular program, but we have a list of programs who agreed to work with the court and make sure that the court is provided with information not just an attendance list, but also to actually engage with our compliance officer and let the court know if someone had said something dangerous, is engaging in some other dangerous practice, or if they're not participating in class. They also agreed to open their doors for unannounced visits by our compliance officer; he'll just pop up and they'll allow him to come in and sit in in the back of the class.

So, you have to talk about all those things from the outset. Again, I would just say don't rush into it, do your research, make sure that your stakeholders are in it with you for the long haul. I'm aware of some jurisdictions in Georgia that decided they wanted to do this, but then when it came time to sign off on the [memorandum of understanding] (MOU) and to get started with the projects, organizations that they thought were with them were not. At the last minute, they changed their minds. I will say that it is not easy, especially if you're going to be a jurisdiction that's going to have law enforcement seize the weapons or have the respondent surrender the weapons. There are some jurisdictions that don't want to do that. You would be doing yourself a favor to connect with one of the [Office on Violence Against Women] (OVW) mentor courts, and I'm proud to say that we became a mentor court in 2014. The mentor courts are recognized for having engaged in best practices in domestic violence cases. I will be the first to say, I say it often, that it's not perfect practices in domestic violence cases because we are always a work in progress. There's always room for improvement. It would be smart to engage with a mentor court to figure out what policies and procedures that [courts] can put in place. And they can hear from us directly about lessons learned.

Another thing I would say is that it is really, really important that you engage with your sheriff's office or whatever law enforcement arm is responsible for serving those orders. That is a prime opportunity to seize those weapons,

to engage in safe practices, and to have [law enforcement] distribute information to the petitioners so that they can get assistance from the advocates.

[The last] thing I would say is, to the extent that you are able, to have advocates in house or on premises. You know, we ran our program for a couple of years and the advocates were a couple of blocks down the street. But, it makes a world of difference to have them in the courthouse so that the minute victims walk in the courthouse, they're directed to an advocate to help navigate the system from the very beginning - filling out

the petition, accompaniment to court, and safety planning throughout the entire process. And, I say process because it is a process.

Victims are engaging with the advocates and allowed to have autonomy; you don't have a judge stepping in or overstepping, as I like to say, in trying to safety plan or telling a victim that the judge knows what's best for the victim. It's wonderful. I think it should be a requirement that you have advocates available from the very beginning.

THE BIGGEST CHALLENGE IS TRYING TO FIGURE OUT HOW WE CAN INCREASE SAFETY TO VICTIMS AND HOLD RESPONDENTS AND BATTERERS ACCOUNTABLE.

SB: What were the biggest challenges that you and your team faced implementing this docket and how does your team address those challenges?

JUDGE ANDERSON: The biggest challenge is trying to figure out how we can increase safety to victims and hold respondents and batterers accountable. How can we do that in a meaningful way and in a way that makes it less burdensome for victims, but also for respondents? Because with this compliance calendar, many of them have

to take off work to come to court and so trying to figure that out, trying to strike that balance. As judges, we're not advocates. It's our role to make sure that justice is administered fairly and equitably, but also to make sure that our orders are being enforced and to make sure that Georgia law is being complied with. It took us a long time to figure out that process. I think that people would do themselves justice in just hitting the pause button, sitting back, and doing an inventory. Do you have a coordinated community response around domestic violence? If not, you need to develop one, you need to engage all of the stakeholders, and you need to develop a judicial philosophy around domestic violence cases. You know, judges don't know it all. There's a lot that we don't know. So, you have to keep an open mind, I think, and invite people to the table and listen to them. We judges, we see the world through our lens, but we need to be open and inclusive, to hear from the advocates and the FVIP providers, to bring in people from the Department of Labor or Workforce Development, and to try to not do this in a silo. I think if you try to do it in a silo, then you will fall short.

SB: And the final question: if you were to make a recommendation to a community wanting to implement a similar compliance docket, what would it be?

JUDGE ANDERSON: I think the first thing, I'll go back again and say I think that you should take an inventory of what you already have in place in your community. How are you handling domestic violence cases in your court? Are you going to try to implement a civil calendar? Our [compliance] calendar is unique because it's a civil protective order and there are many courts that have criminal compliance calendars, so you need to figure out: is this going to be civil or is it going to be criminal? Courts should consider the following questions: What can I do? What authority do

you have? What sanctions are available to me? Who are my justice system partners? Who are my community partners? What does that look like? Do you have partners who are going to enforce your orders?

Again, I can't comment enough on how important it is to connect with a mentor court who's doing the work that you want to do. We're out here, we're available, we can travel to your jurisdiction to talk with you, to meet with you, to take a look at your forms, take a look at how you handle these cases, whether they are civil or criminal. Courts can come to our court. Since 2014, we've had hundreds of judges, advocates, and attorneys come to look at how we handle these cases. And, [have had] judges from as far away as Guam and Hawaii [come to our court]. It's worth the trip; it's worth taking the time away from the bench to go and look at how someone else is doing it because you want to get it right.

SB: Thank you so much.

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