STATE OF MISSOURI DOMESTIC VIOLENCE TASK FORCE
PRESIDED OVER BY ATTORNEY GENERAL CHRIS KOSTER

SEPTEMBER 20, 2010
COLUMBIA, MISSOURI
## INDEX

<table>
<thead>
<tr>
<th>Testimony By</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>Colleen Coble</td>
<td>09</td>
</tr>
<tr>
<td>Dan Knight</td>
<td>30</td>
</tr>
<tr>
<td>Bob Dochler</td>
<td>67</td>
</tr>
<tr>
<td>Robert Bruchsaler</td>
<td>91</td>
</tr>
<tr>
<td>Catherine Vannier</td>
<td>113</td>
</tr>
<tr>
<td>Greg Linhares</td>
<td>133</td>
</tr>
<tr>
<td>Deborah Daniels</td>
<td>162</td>
</tr>
<tr>
<td>Mary Ann Allen</td>
<td>196</td>
</tr>
<tr>
<td>Beth Savitsky</td>
<td>219</td>
</tr>
<tr>
<td>Katherine Wessling</td>
<td>230</td>
</tr>
</tbody>
</table>

(No exhibits were marked.)

## APPEARANCES

<table>
<thead>
<tr>
<th>Position</th>
<th>Name</th>
</tr>
</thead>
<tbody>
<tr>
<td>Attorney General</td>
<td>Chris Koster</td>
</tr>
<tr>
<td>Senator</td>
<td>Kurt Schaefer</td>
</tr>
<tr>
<td>Representative</td>
<td>Chris Kelly</td>
</tr>
<tr>
<td>Representative</td>
<td>Stacey Newman</td>
</tr>
<tr>
<td>Representative</td>
<td>Stephen Webber</td>
</tr>
<tr>
<td>Representative</td>
<td>Mary Still</td>
</tr>
<tr>
<td>Missouri Coalition Against Domestic &amp; Sexual</td>
<td></td>
</tr>
<tr>
<td>Violence:</td>
<td>Colleen Coble</td>
</tr>
<tr>
<td>Missouri Office of Prosecution Services</td>
<td>Jason Lamb</td>
</tr>
</tbody>
</table>

## Page 4

ATTORNEY GENERAL KOSTER: Good morning, everybody. I want to thank everyone for being here this morning. We'll try and keep this on time throughout the morning and early afternoon if we go that far.

I'm very excited to host the second in our series of meetings, and I appreciate everyone's commitment to this issue of better addressing the scourge of domestic violence in our state.

For 10 years I served as prosecuting attorney of Cass County in Western Missouri, and anyone who has served as prosecutor for any length of time, including Boone County's elected prosecutor who I see has entered the room. Dan, it's nice to see you this morning.

Anyone who has served as prosecuting attorney for any length of time, even a week or just one day, knows the devastating impact that domestic violence has on individuals, children, families and even communities. Many of the cases I dealt with stay with me even today.

Nearly all of them involved acute physical violence, several ended in homicide.

When I was running for attorney general I promised Colleen Coble, the woman sitting to my right, the executive director of the Missouri Coalition Against Domestic Violence, that I would bring together the entities involved in our state's system for dealing with domestic violence: police, sheriffs, prosecutors, the courts, victim advocates, probation and parole personnel, to take a comprehensive look at our laws and practices with an eye toward making our system work better than it does today.

It has been 30 years since Missouri set up its framework for domestic violence laws in our state. Thirty years ago then Attorney General, John Ashcroft, held a similar statewide forum to examine the problem of domestic violence. And while the General Assembly has passed numerous laws related to domestic violence since that time and many of them have been very, very good and positive changes, they have occurred piecemeal.

The goal of this series of meetings is to again take a comprehensive review of the laws and practices in this area, to identify areas where the statutes and local practices fall short of protecting victims and preventing...
domestic violence.

Personally I think all of us want to learn more about this issue and help highlight best practices in the court system and in law enforcement that they may be replicated across the State of Missouri.

We had a very productive set of meetings in St. Louis on September 7th. Among those ideas we have a 185-page transcript that was taken that day which will -- is either on the Internet now or will soon be on the Internet, and many of the ideas are articulated there and can be read by the citizens of the State.

St. Louis County Prosecuting Attorney, Bob McCulloch, for example, at that meeting said that training officers to include specific details in their reports of victim's statements when first responding to domestic violence calls would lead to greater opportunity to admit into evidence -- to admit into evidence at any court proceeding if the victim is unable or unwilling to testify. And Judge Michael Burton called for allowing greater judicial flexibility with orders of protection to extend their terms and include conditions that must be met prior to any dismissal.

I'm grateful to the members of the legislature who are here today trying to help this problem across the State. You are critical to this process, and I both appreciate and look forward to your comments today and ideas on this important issue. We have two more meetings currently scheduled. The first is today's meeting and then one in Kansas City on September 27th.

If we need more time we will continue this process. I'm committed to investing as much time and effort as we require. Our goal is to develop a comprehensive report with meaningful and detailed recommendations on how we can improve our state's handling of defendant abusers, their victims and the subject of domestic violence as a whole.

Again, I appreciate your being here today, and I look forward to continuing to build momentum through these meetings as we move across Missouri.

Let me introduce now the people who are here with me and a few names that will be here soon as the morning progresses. The first, again, to my right is Colleen Coble who is the CEO of the Missouri Coalition Against Domestic and Sexual Violence. She is a well-known advocate of -- on the issue to the General Assembly and to all of us who care about these matters across the State.

Jason Lamb to my left is the Executive Director of the Missouri Office of Prosecution Services and a former prosecutor himself in Audrain County from 2003 to 2009. Representative Chris Kelly to my right represents the southern part of Boone County including Columbia. Chris was elected to the house -- has been elected for the house for six terms from 1982 to 1994 and most recently elected again in 2008. He has previously served as Boone County's Associate Circuit Judge.

Representation Stacey Newman to my left was elected to the house in 2009 and serves part of Richmond Heights and Clayton over in the St. Louis area. We thank her for making the drive all the way from St. Louis to show her commitment to this issue.

And Senator Kurt Schaefer, my colleague -- my former colleague from the Senate as I was in that body before I moved into this position. Senator Kurt Schaefer was elected to the Missouri Senate in 2008 and represents Boone and Randolph Counties. He sits on the judiciary and appropriations committee. He's the vice chairman of the appropriations committee, and in a short time has handled many significant issues including strengthening tobacco enforcement laws and DWI laws in our state.

And I believe that Stephen Webber and Mary Still, both state representatives from this area, will be joining us as the morning progresses.

So with that let's begin the morning and ask Colleen Coble, CEO of the Missouri Coalition Against Domestic and Sexual Violence, to start things off.

Good morning.

TESTIMONY

BY COLLEEN COBLE:

Thank you all very much for this opportunity. My task this morning, continuing on with my role as historian, is to give you an
overview of state and federal funding that comes into the State of Missouri and supports the work of domestic violence direct services from the advocacy community through shelters and non-residential programs as well as the funds that support our allies within law enforcement, prosecution and the courts.

There is a flowchart in your binder. I'm not certain of the tab. It's funding, aptly named, that gives you sort of a color-coded diagram if you wish to refer to that as I begin.

The first state funding for domestic violence services occurred in Missouri in 1993. It was $125,000 for all of the programs that existed in the State at that time numbering about 30. The state funds have grown since that time to the current rate of 4.75 million. Those state dollars flow from the Department of Social Services and are appropriated within the Division of Family Services, or the Family Support Division now.

Just again, by way of anecdote, that first $125,000 that came into the State was actually a transfer from the horse racing commission which at the time had an annual budget of $125,000 even though horse racing was illegal in the State of Missouri. So having pointed that out your colleagues in the General Assembly at the time felt that it was deserving to transfer those funds to domestic violence services.

The other notable early days appropriations history is that at the time of the floods, when Governor Mel Carnahan was in office in 1993, we noticed upwards of 50 to 60-percent increases in requests for services. And as you recall, that disaster continued over the span of two plus years almost. And through Governor Carnahan's leadership at the time we were able to be the first state in the nation that received funding for domestic violence services as a part of federal disaster relief. That is now standard in the federal government's response to natural disasters. I'm very proud of that work that happened in the State of Missouri.

The largest source of funds to support domestic violence programs come from the federal government. If we look at this flowchart you can see there are three main federal departments that fund domestic violence services, and those are primarily shelter, hotlines, legal advocacy, case management, support groups, therapy and services for children. The Department of Justice has the largest amount that they provide to the State of Missouri. In the Victims of Crime Act it's about 7-1/2 million dollars in this current fiscal year. Those aren't federal tax dollars. Those are crime fines that are levied against those convicted of federal crimes. They're put into a program that is allocated each year by Congress. On a percentage basis those funds are then awarded to states. Those funds are open to all of those who provide services to victims of crime; again, law enforcement, prosecutors, and not strictly limited just to domestic violence.

Sexual assault services, child abuse programs are also funded out of what is a called VOCA funds at the federal level. A new program has just been initiated that is on the chart for sexual assault services. The majority of the programs in the State of Missouri are not solely domestic violence programs but they are both sexual assault and domestic violence. Most communities cannot support standalone separate programs except the urban areas. Kansas City and St. Louis have separate rape crisis programs. There's a new federal program under the Violence Against Women Act that is the first time there's been funds awarded for sexual assault services. I might add there's never been state tax dollars appropriated for sexual assault services.

Those dollars come in now at just a little over $275,000 for the entire state. All of these Department of Justice funds are appropriated and designated for distribution through the Department of Public Safety. Sort of a flow from the federal similar department, Department of Justice, down to Missouri's Department of Public Safety.

The other grant program that is very significant in funding these services is what's known as STOP grants, and Services Training Officers and Prosecution grants that have a federal formula. Thirty-five percent of that formula goes to victim services. The others are...
1 allocated law enforcement, prosecutors and courts.
2 There are also discretionary grants that the State is eligible to seek at the federal level. Those are listed; everything from visitation centers to rural grants, transitional housing, which is a chronic need in the State of Missouri and around the country, and then civil legal assistance grants. Missouri has received some or all of those grants in the past. They are often awarded for about three years and then you're done. So there's a problem of sustaining programs that are started with the federal funds, and we in Missouri have nothing to go to with state funds to keep them going.

The last grant that's in the Department of Public Safety mirrors the federal Victims of Crime Act. It's called the State Services to Victims Fund statutorily established, and it assesses fines on those convicted of crimes in the State of Missouri. $7.50 a case goes into this fund. There's a funding allocation that is set in the statute. Some of it supports the work of the office of Victims of Crime in DPS, some goes to the highway patrol, and some goes into direct funds for crime victims in the crime victims compensation program. The rest goes into the grant program, and SSBF is its shorthand. It's about 5 million dollars a year.

Moving over to what comes from the Fed. Under the US Department of Health and Human Services was the very first federal grant program, the Family Violence Prevention and Services Act. That also flows like the State dollars to the Department of Social Services, and it's been pretty steady for a long time at about 1.6 million. It's bumped up a little bit over time, but there's not been any significant increases in those dollars for quite a long time.

The Centers for Disease Control and Prevention is also under that federal designation, that federal department, and their funds come in the Department of Health and Senior Services in Missouri. They have two grant programs; one that's part of a larger block grant that can be used for sexual assault services. That is just a little bit over a hundred thousand dollars for the entire state.

1 The more significant grant program is our one piece in the entire funding scheme that provides for prevention work, and that is the Rape Prevention and Education Fund that's also in the Department of Health, and that's about $730,000, although that is a fund that fluctuates quite a bit over each year.

The last federal stream is at HUD, Housing and Urban Development, and those are homeless funds. Several -- many of the domestic violence shelters in the State are eligible for those dollars as they are serving families that are made homeless as a result of violence in their own homes. Those dollars come in at about 1.8 million.

All of these grant programs are competitive. The funds have not increased over years while the number of programs competing for these funds has tripled. We --

REPRESENTATIVE KELLY: Tax credits.

MS. COBLE: Yes. In about '94 was the law that passed that established tax credits for domestic violence shelters. We have a statutory cap at 2 million dollars, and I would submit there's quite a difference between the dollar amount and the value at the community level that those benevolence tax credits bring in.

REPRESENTATIVE KELLY: Now, you don't show the tax credit money on your chart. Does the tax -- if I were to make a tax credit contribution does the money flow directly to the individual shelter in my community?

MS. COBLE: Yes, sir, it does. The Department of Social Services administers that. You have to be certified and in compliance with the statutes, and then it goes directly to that program.

REPRESENTATIVE KELLY: All right. And the State government doesn't play any kind of a -- or does the State government play some role that I don't know about in the decisions about how to use that money or is that decision --

MS. COBLE: No, sir.

REPRESENTATIVE KELLY: -- pretty much left in the hands of the individual shelter?

MS. COBLE: It's left in the hands of the locals providing the shelter services. They
ATTORNEY GENERAL KOSTER: Do you know how much the tool was used last year?

MS. COBLE: Last year and the previous year have been some of the lowest years on record because of economics. And I believe we were only using about half of those tax credits last year, about a million, but those numbers are already increasing as the community continues to get onboard. And those are really crucial dollars.

ATTORNEY GENERAL KOSTER: If I could follow up, because I apologize, my attention got diverted for a second. What is the tax program -- tax credit program that benefits this issue and what is the name of it?

MS. COBLE: It’s the Domestic Violence Shelter Tax Credit. It’s a 50-percent tax credit on donations of $100 or more to eligible domestic violence shelters that meet the requirements in state statute for their operations and establishment. And it --

ATTORNEY GENERAL KOSTER: Is it capped or uncapped?

MS. COBLE: Capped at 2 million. Can’t be bought or sold. Other tax credit programs can. This is solely for the eligible entities in each community. And if there are -- the Department of Social Services will reallocate if there are funds that aren’t being used in one part of the State and there’s a greater need in another. So there’s great flexibility.

ATTORNEY GENERAL KOSTER: And I may be -- I know I’m asking the same question twice, but how much of that has been used in the last couple of years?

MS. COBLE: We have been about at half for the past couple of years. As most of the charitable tax credits have gone down, ours has done so similarly.

ATTORNEY GENERAL KOSTER: Could I ask a few other questions or how much farther do you have in your presentation?

MS. COBLE: I’m ready for questions.

ATTORNEY GENERAL KOSTER: You mentioned earlier that the horse racing commission had directed about -- did you say about 140K?

MS. COBLE: 125.
MS. COBLE: Yes, it is. It is.
ATTORNEY GENERAL KOSTER: One of the numbers that came out in our last meeting that was so interesting was the notion that 25,000 people or so had requested overnight help from domestic violence shelters and 15,000 of those 25,000 were turned away because lack of resources. And the poverty numbers just came out, I don't know, over the weekend or a week ago, whenever that was, and we're seeing increased utilization from Medicaid here in the State and other things. Do you have -- with us being three-quarters through the calendar year do you have any indication as to whether -- where you are on utilization of the shelter resources and increased utilization I guess is the --

MS. COBLE: Tremendously overcrowded and still turning people away. Programs are packed. The residential programs are seeing the increases continue. We've also done some identification of the percentages because our programs are free to those in need. We serve an over represented percentage of women and children living in poverty. So anywhere from 70 to 85 percent of those coming in for services have no place else to go and are living well below the federal poverty levels.

ATTORNEY GENERAL KOSTER: On shelter utilization are you the -- is your entity, MCADV, the entity that accumulates those numbers --

MS. COBLE: Yes.
ATTORNEY GENERAL KOSTER: -- from around the State?
MS. COBLE: Yes. The State contracts with us.

ATTORNEY GENERAL KOSTER: And do you do that on a quarterly basis or on a --

MS. COBLE: We receive --
ATTORNEY GENERAL KOSTER: -- annual basis?
MS. COBLE: -- reports on a monthly basis and then compile them annually. So we can give you some touchstones in time.

ATTORNEY GENERAL KOSTER: So when we put together a report, say, in a month from now or month and a half --

MS. COBLE: We could tell you what we have to date, yes, sir.
issue that tax credit. And Chris and I worked
very hard on that. One -- the reason we were
able to, I think, turn that decision around is
the food bank had some really compelling data on
roughly $100,000 tax credits, how they could
leverage that to 1.3, 1.5 million dollars worth
of food.

The Governor did put together a tax
credit commission that’s looking at tax credits
and frankly looking at eliminating tax credits
right now. And so for my own benefit I would
like to know how that money -- not just the
amount, but how it was leveraged, and I would
really implore you to provide that data to that
tax commission because they’re looking at all
tax credits.

MS. COBLE: I do intend to speak to
them. I can tell you there are several program
representatives and directors in the audience
today. All of these federal grants, the
majority of them require matching money.

SENATOR SCHAEFER: Right.

MS. COBLE: It’s the kind of thing when
those tax credits come in and then they’ve got
the cash match that they can use to get all of
these federal dollars that otherwise they
couldn’t get. So it’s an essential piece of
that funding mechanism.

Some of these programs have got upwards
of 25 to 30 different funding streams to keep
track of, which if I could -- my one ask for
this as time runs out is just to note that the
federal government allows the State of Missouri
to take a 15-percent administrative cut off of
all of these funds. Yet a not-for-profit that
employs four staff members has more requirements
from the IRS, reporting requirements, than
government does. We fall under the same
requirements of the IRS in reporting that all of
the big businesses fall under.

The mishaps at Enron and other
corporations resulted in significant changes in
tax laws and reporting for all corporations. We
need to have a system in Missouri where there
can be a percentage allowed in these grant
programs for the administration of programs that
are subject to great penalties and loss of
not-for-profit status if they don’t do that.

And that’s a big need for right now.

ATTORNEY GENERAL KOSTER: Chris?

1 of the 990 reports that have been hugely
expanded over the past two years.

REPRESENTATIVE KELLY: I think it would
be a good idea to flush that out a little more.
And here’s why. My colleagues in the
legislature are generally loathe or at least
skeptical about providing administrative money.

MS. COBLE: True.

REPRESENTATIVE KELLY: But if they saw
how providing the administrative money would
mean less fooling around with the IRS, they
don’t like the IRS even more than they don’t
like administrative money, and they would be
inclined to go for something like that, I think
anyway, or at least an allowance of a
percentage. Thank you.

ATTORNEY GENERAL KOSTER: Any other
questions? Thank you very much, Colleen.

Let’s see. I think now we would like
to welcome Dan Knight who is prosecuting
attorney of Boone County to come and talk with
us about prosecution challenges in domestic
violence cases.

I’d also like to welcome Representative
Stephen Webber. Welcome, sir. He represents
MEETING 9/20/2010

1  this area as well.
2  Dan, good morning.
3  TESTIMONY
4  BY MR. KNIGHT:
5  Good morning. Thank you everybody for
6  letting me come speak to you today. And most
7  importantly I'd like to thank Attorney General
8  Koster for convening this task force which is,
9  of course, an extremely serious issue that we're
10  dealing with, and I hope that some of my input
11  will be worthwhile to this panel.
12  Obviously, law enforcement has its
13  hands full across the country, throughout
14  Missouri and right here in Boone County dealing
15  with these individuals who victimize the weak
16  and the defenseless and the vulnerable. A lot
17  of times we're talking about girlfriends, we're
18  talking about wives, ex-wives, but a lot of
19  times the thing that makes these cases just so
20  heartbreaking is that we're talking about
21  children who are victims in one way or another.
22  It's my strong belief that these
23  offenders must be held accountable for their
24  actions for a number of different reasons.
25  First of all, though, to separate those

1  individuals from the people that they abuse, at
2  least for a period of time. Sometimes it's very
3  important to do that, but also these people are
4  a threat to the general public, of course. But
5  deterrence is important so it's important for
6  these people to be held accountable so that in
7  the future this same offender might think twice
8  before committing this type of offense, and then
9  also it's important always to send a message to
10  the community that we just will not tolerate
11  this type of conduct.
12  These cases are serious, like I said.
13  They receive a very high priority in my office.
14  Jason Lamb has provided a letter to Attorney
15  General Koster. I think it was dated late July
16  of this year. I'm sure you all have had an
17  opportunity to look at that. I agree with those
18  suggestions. I support those suggestions that
19  he's made.
20  However, I'm going to focus my comments
21  today specifically on this issue of victim
22  cooperation. Without any question in these
23  cases, without any question, the largest problem
24  prosecutors and law enforcement deal with in
25  holding these offenders accountable is this

1  issue of lack of cooperation from victims. You
2  know, we need to have victims come into court
3  and testify after these things happen to them.
4  And, you know, it all stems back -- I know that
5  you all understand this. But this stems back to
6  the Sixth Amendment to the United States
7  Constitution.
8  Defendants have a right to confront
9  witnesses against them. Witnesses would be
10  victims in this case. So generally speaking,
11  generally speaking, a victim is going to have to
12  come into court and testify against the person
13  who has committed this crime. And then the
14  mechanism to -- for -- to effectuate this right
15  of confrontation is cross-examination. And
16  generally speaking, defendants in these cases
17  are going to have attorneys, and they will be
18  able to cross-examine these victims in court.
19  So these victims need to testify.
20  Now, Bob McCulloch, the prosecutor for
21  St. Louis, has made suggestions about police
22  reports and improvements in police reports, I
23  guess, and training that can be done. Sometimes
24  excited utterances can be used, for example, in
25  lieu of victim testimony, but the great majority

1  of these cases require victims to actually come
2  into the courtroom and to testify.
3  You know, that's a common misconception
4  also among victims that we deal with on a daily
5  basis. They think, well, you know what? I
6  already told the police what happened, and that
7  should be in a police report. Why can't that
8  police report just be used in lieu of my
9  testimony? No confrontation there. Sixth
10  Amendment. And so we have to explain that to
11  them. And I -- and like I said, I think the
12  single largest reason, the single largest reason
13  that we have this problem of lack of cooperation
14  is due to victim manipulation without any doubt.
15  I believe that the laws in the State of
16  Missouri inadequately address this issue of
17  victim manipulation, and I'll get to that in a
18  little bit. But first of all, I'd like to talk
19  to you about the nuts and bolts of prosecution.
20  And I'm sure you've probably heard this before,
21  but I think it's worth repeating. When offenses
22  -- when these offenses are committed it's up to
23  law enforcement, of course, to conduct that
24  initial investigation. And then when law
25  enforcement believes there's enough evidence to
prosecute, the case will be sent over to our office, and we will evaluate the case, investigate it as much as we can, but an important component to the investigation is actually contacting the victim in the case; finding out what the wishes of the victim are. You know, these victims must be treated with compassion and dignity and with respect. That's very important. And their wishes must be factored into whatever we do in these cases. It's important -- and, you know, in these cases, of course, in a lot of them victims have just been traumatized. Their worlds have been turned upside down, and they don't know where to turn. So it's important for prosecutors to explain to victims where services might be available. Luckily here in Boone County we have wonderful agencies that provide services to victims. Barb Hodges from True North, they will provide services to the best of their ability with regard to maybe shelter -- immediate needs like shelter or food, even counseling, things like that. It's important for prosecutors to steer victims in the right direction, and it's important for those agencies such as True North, which was formerly The Shelter, or the Rainbow House, those types of agencies to be adequately funded.

It's important for prosecutors to explain to victims what they can expect from the criminal justice system. You know, our hope is that victims will hang in there, and in many cases, you know, over time victims don't for one reason or another. Of course, I think victim manipulation is our biggest issue there. But explaining to victims what can happen. Here's what can happen to a victim in these cases. You know, typically in all domestic cases a defense attorney or a defendant is going to have a right to take a deposition in Missouri of a victim. I believe last I heard Missouri is one of only, I think, 10 states or so, it might be give or take a couple, 10 states or so that allows for defendants through their attorneys to take pre-trial discovery depositions of victims. And let me tell you that's no small deal because those depositions can go on and on and on. They can take hours. And after that, after those withering questions, a lot of times victims decide they no longer want to assist. So that's a right the defendants have here in Missouri that's not afforded to a lot of defendants in a lot of other states. It makes things a little bit more difficult as far as prosecution is concerned. Also on felony cases in a lot of counties in Missouri there is no grand jury. So there will be a preliminary hearing. The victim must come in to testify. They're going to be subject to cross-examination right then and there; right then and there in open court. And we'll have victims that will fall by the wayside in other counties because of that. You know, this -- the experience is just too much for them, and sometimes understandably so. You know, these offenders have a large advantage over law enforcement due to the proximity that they have to victims in these cases. They know what makes victims tick. They can push their buttons sometimes, and so they can impact certainly whether or not a victim is going to hang in there. And because these cases are so difficult massive resources are required a lot of times from law enforcement to effectively prosecute them.

Let me tell you a little bit about my office, and I'm proud of this program that we have there called the Domestic Violence Enforcement Unit within our office. We have 3 prosecutors out of 14 that pretty much handle exclusively cases of this nature. I have two victim advocates, and then I also have an investigator. So I have 6 people out of 45 full-time employees who work on these types of cases. You know, our budgets are shrinking. My budget has shrunk every year since I've taken over which was January 1st of 2007, but fortunately we are able to secure grants and about 70 percent of these six positions that we have are funded really through the federal government money that's coming into the Department of Public Safety and being funneled over to our office. So we're very grateful for that. Then we are part -- this DOVE unit that we have is part of a bigger team, and that is there is actually a countywide Domestic Violence Enforcement unit, and this is a combination of a number of different law enforcement agencies. We have a couple of different detectives from...
the Columbia Police Department. Bob Dochler is here. He's going to speak to you a little bit later. He's a wonderful detective by the way.

We have a detective from the Boone County Sheriff's Department, the shelter -- True North, they play a role in this. We also have a person from the MEND program, and I think that Judge Daniels will explain to you what they do a little bit later.

But, you know, the thing that is so wonderful about this countywide Domestic Violence Enforcement unit that we have is that we are able to share information. We have dedicated individuals that handle these type of cases almost exclusively so we know the offenders. We know people who are victims in these cases, and we can keep track of that. We can brainstorm. We can communicate. And I think a great idea has emerged that I want to talk to you a little bit later to deal with this problem that we have of victim manipulation. And I'm not going to take credit for it. It's come through the Boone County DOVE program.

We also have a domestic violence docket in Boone County, and I don't think that all counties at all have that. As I said, Judge Daniels is the judge there. She does a wonderful job, and I -- one thing that I like so much about this, and that's the domestic violence docket, is that we can hold offenders accountable more quickly. Cases don't seem to get continued or pushed off as often. Judge Daniels will hold the party's feet to the fire, and we will have to get a case resolved one way or another pretty quickly. And that is important because victims in these cases, like I said, over time can fall by the wayside.

Here's what I see as a major improvement that could be made to the criminal justice system in the State of Missouri that might dissuade defendants from engaging in this victim manipulation and would then probably, I think, certainly result in more victims staying cooperative in cases.

Here's what happens, and I'm sure you all know this. In a large majority of these cases -- the majority of the domestic violence cases that we have are misdemeanors, but in a large majority of these cases someone is arrested and they're taken to our jail. And this is going to be typical, I think, of other counties in Missouri. They're taken to our jail and then before the prosecution is even involved in the case defendants are given an opportunity to bond out.

In Boone County the scheduled bonds on these domestic violence cases; assault -- domestic assault in the Third Degree, Class A Misdemeanor, is going to be $1,000. So the majority of these defendants will actually bond out. On our bonding papers which is a contract with the Court that the defendants must sign off on, they will -- there will be a condition to have no contact with the victim in a case. And then typically the bond will be returnable in Boone County maybe a week later.

Here's the problem that we run into. Defendant is arrested. Law enforcement says well, if he bonds out he's going to be -- the condition is going to be no contact with you. And then within hours of the offense being committed the defendants may be right back at the residence where the crime occurred, or the defendant one way or another is contacting his victim, and the victim is saying hold on a second. I thought that this defendant was ordered not to have contact with me. I'm going to call the police.

So the victim will call the police, and the police will say well, our hands are tied here because there is no law that prohibits this. It's basically just a contract. Now, what I'll do for you is I will submit -- I'll take a report, and I'll submit this report over to the prosecutor, and the prosecutor can then file a motion to revoke that bond. Judge Kelly was an Associate Circuit Court judge, I think, for seven years in Boone County. You know the process here.

But what will happen then is the prosecutor -- who knows. This might occur on a Saturday. We don't have court on Saturdays and Sundays. So the very quickest we'd be able to get this on might be a Monday, but don't hold
1. your breath on that. That probably isn't going  
2. to happen. It probably is going to take maybe a  
3. week before we can take any action, before we  
4. can get into court with notice being provided to  
5. the defendant and have this bond revoked in a  
6. particular case.  
7. Well, the defendant very well might go  
8. back to jail, bond again, and then the whole  
9. process starts all over. I think that what  
10. would be tremendous would be a law that would  
11. actually prohibit this. And I think that we  
12. could have language in the bonding papers  
13. themselves, in the bond form, that say if you  
14. contact the victim in any way, you will be in  
15. violation of this statute which has punishment  
16. up to maybe one year in jail. I propose at  
17. least a Class A Misdemeanor for this, but that's  
18. something that we can worry about a little bit  
19. later on.  
20. ATTORNEY GENERAL KOSTER: I'd like to  
21. ask Representative Kelly his thinking on that.  
22. It sounds like what Dan is proposing is  
23. essentially a De facto, an order of protection  
24. in every case, but if it's a condition of the  
25. bond and it's a crime to violate the bond, it's  

---

1. a state order of protection by a different name.  
2. REPRESENTATIVE KELLY: I am quizzical  
3. because dozens of times what happened is exactly  
4. what you say. A guy would violate. Columbia  
5. City policeman would show up -- or a county  
6. deputy would show up at my house asking me to  
7. sign a warrant if I was the judge on call, and  
8. they'd go after him right then.  
9. MR. KNIGHT: For what? Victim  
10. tampering? What would the crime be?  
11. REPRESENTATIVE KELLY: No. For  
12. violation of the conditions.  
13. MR. KNIGHT: What would the crime be --  
14. REPRESENTATIVE KELLY: Or for violation  
15. of the order of protection. See very often --  
16. MR. KNIGHT: I'm going to get to that  
17. because we don't have -- in these cases a lot of  
18. times we're not going to have orders of  
19. protection. And I also think that's an  
20. inadequate tool as far as these no-contact  
21. provisions are concerned. And I'll get into  
22. that in a little bit.  
23. REPRESENTATIVE KELLY: I'm not sure I  
24. disagree with you on the bottom line, but it  
25. seems to me that you could pursue a violation of  

---

1. the conditions of release virtually immediately.  
2. MR. KNIGHT: Well, not in all counties,  
3. and it's certainly not been my experience in  
4. Boone County.  
5. REPRESENTATIVE KELLY: The judge won't  
6. give you the warrant?  
7. MR. KNIGHT: We would have to file a  
8. motion -- sometimes that could potentially be  
9. the case, but generally speaking we would have  
10. to file a motion to have the bond revoked.  
11. REPRESENTATIVE KELLY: Well, but it  
12. seems also in the vast majority of these cases  
13. that an order of protection is issued virtually  
14. simultaneously. Lots -- I mean, I saw many --  
15. I'm sure they don't in every case, but I saw  
16. many of them.  
17. MR. KNIGHT: That's a tool. In some  
18. cases orders of protection will be sufficient.  
19. In some cases. But I want to go through --  
20. REPRESENTATIVE KELLY: I agree that  
21. they're not in many cases.  
22. MR. KNIGHT: Yeah. I want to go  
23. through later on with this panel why I think  
24. they are insufficient in a lot of cases. Okay?  
25. ATTORNEY GENERAL KOSTER: Over in the
1 is a criminal violation of the order of
2 protection.
3         MR. KNIGHT: Absolutely. Yeah, I do.
4 But I think that there are certainly some
5 shortcomings with orders of protection when
6 we're dealing about no-contact provisions, and
7 I'm going to go through that in a little bit.
8 REPRESENTATIVE KELLY: And he doesn't
9 need any judicial sanction to enforce the
10 violation of the order of protection because
11 that is a new --
12         MR. KNIGHT: Right. That would be a
13 new law.
14 REPRESENTATIVE KELLY: Right.
15 MR. KNIGHT: Sure. So then I think
16 that this information should actually be
17 contained in the bonding papers. And I believe
18 Lisa Manson who works with Katherine Vannier,
19 she's done a lot of research on this. And this
20 morning when I came in there was maybe a 50-page
21 outline of what other states do in these types
22 of situations and how they have criminalized
23 this type of conduct. I haven't had a chance to
24 look through all that, but when I was browsing
25 over that this morning I did see that in some
1 states it looks like there is that actual
2 provision in the bonding paper.
3         Okay. So that covers the situation
4 where someone has -- I think covers the
5 situation where someone has bonded out and has
6 had contact with the victim. But, you know, a
7 lot of times these offenders they will also be
8 incarcerated and have contact with victims. And
9 so what I think should happen in those
10 circumstances is a lot of times, like I said --
11 well, when they're in custody we're going to
12 have a much quicker arraignment. It's going to
13 be usually a couple three days maybe.
14 And then I'd like for -- in Missouri
15 for courts to be able to make an order to
16 defendant; you are not to have contact with this
17 victim. And maybe even cite the statute, maybe
18 even provide a copy of the statute. And if the
19 defendant does, then once again we're talking
20 about another criminal offense. Because a lot
21 of times we'll have these defendants, they'll be
22 in jail, and they contact -- they contact
23 victims, and it's going to be maybe some type of
24 a threat or it could be potentially some type of
25 an idea where a defendant might confer a benefit
1 on a victim for not doing this; for not
2 testifying. But a lot of times the intent is
3 not overtly stated. Because, you know, as
4 you're sitting here right now you might think to
5 yourself, well, that sounds like victim tampering
6 to me. You know, and we've already got a
7 statute on victim tampering.
8 Victim tampering under 575.270,
9 Subsection 2. I'd like to read this, and I'm
10 not reading the whole statute. I'm just reading
11 the relevant part that we would deal with as
12 prosecutors and judges in this situation.
13 "A person commits the crime of victim
14 tampering if, with the purpose to do so, he
15 prevents or dissuades or attempts to prevent or
16 dissipate any person who has been a victim of any
17 crime from assisting in the prosecution
18 thereof."
19 First of all, we have to show that
20 there is this purpose to dissuade. When an
21 offender is calling from jail and saying hi,
22 sweetheart, I can't wait for the -- I can't wait
23 because I've got a great idea. In a month I
24 think that you and I should go to Los Angeles on
25 a vacation or something like that. Well, how do
1 we prove that the purpose is to prevent or
2 dissuade that victim from assisting the
3 prosecution? It's very difficult to do. Or if
4 maybe an offender would say something like
5 honey, you know how much -- how angry I get when
6 you disobey my wishes. Well, how can we prove
7 that the purpose is to dissuade or prevent
8 someone from assisting?
9 So the victim tampering statute is not
10 adequate. Now, problems with relying on
11 protection unfortunately --
12         REPRESENTATIVE KELLY: Couldn't you --
13 instead of making a new statute could you just
14 amend victim tampering to say to include contact
15 in violation of a -- and that might be cleaner
16 and shorter.
17         MR. KNIGHT: Absolutely. Yeah.
18 REPRESENTATIVE KELLY: So if you don't
19 have an intent the contact itself amounts to
20 victim --
21         MR. KNIGHT: Sure. Wherever you all
22 would want to put this --
23         REPRESENTATIVE KELLY: I'm just
24 thinking out loud here.
25         MR. KNIGHT: Certainly. You know, it
1 might fit right in there. It might fit in this 1 house forcibly that there's a mandatory
2 575 section. It certainly could. 2 three-day cooling off period or whatever it
3 REPRESENTATIVE KELLY: Is it a Class A? 3 would be?
4 MR. KNIGHT: Victim tampering, yes, 4 MR. KNIGHT: I'm sorry. I don't know
5 would -- yeah. That would be a Class A, but in 5 that.
6 some cases felonies would be -- 6 ATTORNEY GENERAL KOSTER:
7 MR. LAMB: If the underlying crime is a 7 Representative Kelly?
8 misdemeanor, it's a Class A. If the underlying 8 REPRESENTATIVE KELLY: Here's the
9 crime is a felony then it's a Class C felony. 9 downside, I think, of a mandatory cooling-off
10 REPRESENTATIVE KELLY: It is? Okay. 10 period. A mandatory cooling-off period implies,
11 MR. KNIGHT: In a lot of these cases, 11 oh, this is something that isn't -- just --
12 though -- and I'm certain of this. Certainly, 12 well, everybody will cool down. This will be
13 in other counties that might not have the 13 fine. As distinct from that what we have here
14 resources to assist victims to get orders of 14 is domestic terrorism and -- I mean, he's just
15 protection because, you know, that takes time, 15 spent 2-1/2 hours holding a gun to her head
16 that takes effort. You know, luckily we have 16 while he's drinking a six-pack. Oh, we'll let
17 Barb Hodges here who -- at True North and who at 17 you cool down. Everything will be fine.
18 anytime day or night is going to assist in 18 ATTORNEY GENERAL KOSTER: In terms of
19 obtaining these ex parte orders. But a lot 19 where mandatory state action comes in. I mean,
20 cases, for whatever reason, we're not going to 20 if -- that's what the order of protection is.
21 have an application from petitioner for an order 21 If the criminal penalty for violating an order
22 of protection, and when we do have it and when 22 of protection is raised, anything that is an
23 it is signed off by the judge, tremendous. The 23 extended period of separation should be --
24 no-contact order we can enforce through -- 24 REPRESENTATIVE KELLY: Oh. I see. In
25 because it's going to be a criminal violation. 25 addition to.

That's great.

You know, another problem that I have
with these orders of protection is that we put
the onus on the victims to apply for these. You
know, when I'm handling these types of cases and
we have a victim that doesn't want to assist, I
always say, you know, we can make it clear when
you testify in court that this is -- you can --
that the defendant can be mad at me because I'm
calling you to testify. I've subpoenaed you.
This is a court order, and all the pressure is
on me then, and we'll even establish that you
don't want to be there and testify. It takes
the pressure off a little bit, I think, in these
cases. But with orders of protection, they have
to be written out by victims placing all the
pressure directly on them.

ATTORNEY GENERAL KOSTER: Dan, do you
know of any state that has a mandatory
cooling-off period, like a three-day mandatory
--

MR. KNIGHT: As far as what?

ATTORNEY GENERAL KOSTER: Well, in
terms of when the police have been called to the
house and the offender has been taken out of the
1 we're going to -- if we're going to have a
2 contested hearing, the victim a lot of times
3 must testify against the defendant in order to
4 get this full order of protection. A lot of
5 times at that point the defendant is represented
6 by an attorney and here we go again. We've got
7 another opportunity to cross-examine this
8 victim. So we're putting all this burden on the
9 victim in these cases when we're dealing with ex
10 parte and full orders of protection.
11 Now, this -- there's this age-old issue
12 that we have of balancing the need for
13 accountability of an offender with balancing the
14 wishes of a victim in a particular case. And,
15 you know, a lot of times for whatever reason
16 victims do not want to assist, but we in some
17 cases are going to go forward if a victim does
18 not want to assist, and we'll take into
19 consideration a number of different factors; the
20 severity of offense, the defendant's criminal
21 history, whether or not there were children
22 involved, whether or not the defendant has made
23 threats to commit future acts of violence which
24 happens a lot against this victim.
25 So sometimes we will actually go to
26 trial without victim cooperation. And we do
27 have one good law on the books here, it's
28 491.074. This allows the State to call the
29 witness, which a victim will a lot of times
30 recant, and then under this statute we can call
31 a police officer typically, or maybe another
32 witness, to testify about statements that the
33 victim gave that would be prior inconsistent
34 statements, and we can use those statements as
35 substantive evidence.
36 That process works. It works in some
37 cases. I'm not saying we do it in all these
38 cases, but it works in some cases. It doesn't
39 work when the victim happens to be married to
40 the defendant. Because in that situation the
41 victim can get up on the stand and invoke the
42 spousal privilege and then there is no testimony
43 at all. There are no inconsistent statements to
44 use.
45 I agree 100 percent with Jason Lamb's
46 No. 1 suggestion in his letter to you,
47 Mr. Koster, and that is that the spousal
48 privilege in the State of Missouri must be done
49 away with. You know, there's a great book,
50 Scoundrels to the Hoosegow, written by Morley
51 Swingle. He's a tremendous prosecutor down in
52 Cape Girardeau County. I would feel proud to
53 call him my friend. I read that book right
54 after it came out, and in 2007 he wrote in his
55 book that only four states -- only four states
56 in the United States still have this provision
57 on the books that allows a spouse who has been
58 abused in one of these domestic violence
59 situations to invoke the spousal privilege which
60 deprives us of this tool that we have as far as
61 using prior inconsistent statements. I would
62 advocate for that spousal privilege to be done
63 away with.
64 You know, I really don't have anything
65 more except if you have any questions, I'd be
66 happy to answer them.
67 ATTORNEY GENERAL KOSTER: Colleen?
68 MS. COBLE: Ironically one of the No.
69 1 issues from an advocacy community is to
70 maintain spousal privilege, and we talked about
71 this at the St. Louis hearing. Primarily
72 because the way I described it before; the
73 entire authority and power of the State is being
74 brought to bear on this offender and yet they
75 cannot guarantee that he won't re-offend,
do anything. I can go ahead and punch my wife.

The State isn't going to be able to do anything
because she's going to get up on the stand and
she's just going to go ahead and invoke. So
they can't use those prior inconsistent
statements. And then what happens is we wind up
with the victim who's bearing -- all the
pressure is placed on her to invoke that
privilege. And I don't think that that's fair,
you know, in a lot of these circumstances,
because we know why they're invoking a lot of
times because it has to do with victim
manipulation.

You know what we have happen in these
cases?

MS. COBLE: It's because they're
afraid. It's not manipulation when you know for
a certainty that a certain act will occur. So
it's --

MR. KNIGHT: Yeah. And that's -- we're
never going to be able to guarantee the safety
of --

MS. COBLE: Bingo.

MR. KNIGHT: -- anyone whether or not

MS. COBLE: And that's the issue.

MR. KNIGHT: -- whether or not you're
married or not for any period of time, but the
thing is we have to hold offenders accountable
--

MS. COBLE: That has to be said again.

MR. KNIGHT: -- certainly for that case
and --

MS. COBLE: That has to be said out
loud. You can never --

MS. COBLE: And to -- and to deter
future criminal conduct. You know what we have
happen in these cases a lot of times? We'll
have the atomic bomb get dropped on us by
defense attorneys. Hey you know what? At the
time of the assault defendant was not married to
victim, and then low and behold one week before
trial we're presented with a marriage
certificate. Now, if we're going to get -- if
we're -- if it's going to be public policy to
encourage people to get married under those
circumstances then I think that that's not
really something that we want to have happen.

ATTORNEY GENERAL KOSTER: Can I ask
Colleen a question?
These domestic violence cases -- you know, come hell or high water, you know, I don't care what the victim says. I plow -- you know, I bring the cases. You know, who knows how many situations this guy made worse. But, you know, that was kind of the -- at the time that was the theory. How do you develop a mechanism to prosecute when you have not just an absentee victim or a victim who won't testify but an uncooperative victim who recants? And so obviously I think that the whole concept of how to deal with these cases since the mid-'90s has come around back in another way. And, you know, you point out something else.

MR. KNIGHT: You're right, Senator Schaefer. I mean, the way it used to be maybe 30 or 40 years ago was if a defendant was successful in manipulating a victim and the victim came in to the prosecutor and said we -- she, typically the gender is going to be a she, didn't want to assist --

SENATOR SCHAEFER: The case was gone.

MR. KNIGHT: -- the case was gone. And then we did go -- I think the pendulum shifted almost completely to, okay, we're going to go forward no matter what. And now where we are is, you know, this is an extremely difficult weighing process. You know, this isn't math. This isn't science. We're talking about a lot of gray areas here.

SENATOR SCHAEFER: Right. And the difficulty we have as lawmakers too is -- as you pointed out, I mean, we've got incredible resources in Boone County. You know, probably some of the best, if not the best, in the State. But we have to pass laws that are applicable to all 114 counties, and so the laws that we pass have to be able to be carried out by counties which are -- you know, have fewer resources, are less sophisticated and simply don't have the community support, some of the other things that, you know, then make it easier to be in law enforcement or to be in the prosecutor's office on some of these domestic violence issues.

MR. KNIGHT: And I'll tell you what. I think that if -- the no-contact provision is what I initially advocated for here; the big push to make it a violation to -- or to make it a violation of the criminal laws to have contact against a court order. I think that would help with resources because I think that it's difficult, you know, a lot of times from a resource perspective to get these orders of protection.

SENIOR SCHAEFER: No. I think that's a really good idea because then, as you said, you're not ascribing motive. Because if you have a murder case and the defendant calls a witness and says oh, I just wanted to ask him how the weather was. You know, no one believes that.

MR. KNIGHT: Right.

SENATOR SCHAEFER: But the situation being as it usually is in a domestic violence case, you have to, you know, somehow disprove that it was an honorable motive which is a much harder position to be in as a prosecutor. And so I like that idea. And, you know, I don't know if Jason mentioned it before I got here, but, you know, we do have a group in place, it's been in place throughout the summer and will be throughout the fall, to look at revamping the entire criminal code in the State of Missouri. I'm on that, Senator Joey Justice (phonetic is on that, and Jason has been carrying the laboring oar on that. So that's the place I think to slip some of these things into what we're looking at when we come out with a recommendation for what the General Assembly will do.

ATTORNEY GENERAL KOSTER: Colleen, and then if it's okay with the panel I'd like to take a quick 10-minute break.

MS. COBLE: Just to put this in context. In order to get the first major domestic violence law through, the changes that are the basis for what we have in place now in 1989, the only way it would pass out of the House through the judiciary committee was to put in a clause that says that good faith attempts to reconcile a marriage shall not be deemed witness tampering or victim tampering. There is a hole that was purposely put in the law because there is still -- there was still that belief that these were family matters that shouldn't be going through the courts. Unfortunately, there is still a community in positions of authority in certain communities around the State who still hold to that belief. So again, I want to express my concerns about
1 what I see as the risks and dangers to women
2 from the removal of spousal privilege being that
3 some of your less enlightened colleagues perhaps
4 --
5 MR. KNIGHT: Well, and I appreciate
6 that.
7 MS. COBLE: -- will take a page out of
8 the Indiana prosecutor's playbook and we won't
9 have the result that we want.
10 MR. KNIGHT: And I'll respect your
11 opinion very much, but maybe on that particular
12 issue -- and I thank you very much for your
13 comment there. But on that particular issue I
14 think that we might just have to agree to
15 disagree. And, you know, to tell you the truth
16 I've put it in -- I softened up the terms
17 because I could have quoted from Morley
18 Swingle's book where he considered this to be an
19 embarrassment and everything else to the State
20 of Missouri, and I didn't go that far. But I
21 certainly think that, you know, I'm always going
22 to advocate for the -- for that to be done away
23 with, the spousal privilege, but I respect your
24 opinion.
25 ATTORNEY GENERAL KOSTER: If it's okay

1 let's take a 10-minute break.
2 Dan, thank you very much for a very
3 thorough and well thought out presentation. I
4 appreciate your time this morning. We'll
5 reconvene in seven or eight, ten minutes.
6 (Thereupon, the proceedings stood in
7 temporary recess.)
8 ATTORNEY GENERAL KOSTER: I would
9 ask if Detective Bob Dochler could come forward
10 from the Columbia Police Department and talk
11 with us about some of the best practices
12 specifically related to the domestic violence
13 enforcement unit, the DOVE unit that prosecutor,
14 Dan Knight, was discussing earlier.
15 Bob, welcome. Thank you for taking --
16 thank you for what you do, first of all, and
17 thank you for taking time this morning to talk
18 with us.
19 TESTIMONY
20 BY MR. DOCHLER:
21 Mr. Koster, and members of the panel,
22 thank you as well for, one, the opportunity to
23 be here and address you today and talk to you
24 and, second, for holding these hearings. Quite
25 honestly, I was scared to death to show up here

1 today and talk in a forum like this which I'm
2 not familiar with, but I realized, take the
3 selfishness aside, that this is a very important
4 and worthwhile topic. Domestic violence victims
5 do not often get the opportunity to speak on
6 their own behalf so I'm happy to be here today.
7 I'm a detective with the Columbia
8 Police Department. I've been here for ten years
9 with the department, spent seven years as a
10 patrol officer working the midnight beat. For
11 the last three years I've been assigned to the
12 Domestic Violence Enforcement unit, specifically
13 with the major crimes unit as a detective.
14 During my testimony today I would like
15 to share with you basically an overview of what
16 the DOVE unit is. I know Mr. Knight has already
17 touched on that. I'd like to go just a little
18 bit further, explain what the role of a domestic
19 violence detective is, some of the things that
20 we do in our job and our duties. And then as
21 time allows there's four specific areas that I
22 would like to touch on where I think appropriate
23 changes would make law enforcement's response to
24 domestic violence victims better.
25 Those four things are; 1, the ability

1 to hold arrested subjects for a minimum of a
2 24-hour period. No. 2, that law enforcement
3 officers need to have the ability to detain a
4 respondent in an ex parte who is still waiting
5 for the service of the ex parte. No. 3, I'd
6 also like to touch on and address a little
7 further the no-contact bond conditions that our
8 judges are graciously putting on the conditions
9 of their bond but they're not being adhered to
10 by suspects or defendants in our domestic
11 violence cases. And then, fourth, if I have the
12 time, would be that in our community, in our
13 state, third degree domestic assault cases with
14 physical injury are misdemeanors unless there's
15 two prior convictions which make them a felony.
16 I'd like to touch on that and see if there would
17 be any room for increasing those to felonies.
18 With that said, I'd go back at kind of
19 an explanation of what the DOVE unit is. The
20 DOVE unit stands for Domestic Violence
21 Enforcement unit. It's history; about 13 years
22 ago my former partner in the DOVE unit, Jeff
23 Westbrook, was instrumental in developing this
24 unit along with representatives of the Boone
25 County Sheriff's Department, probation and
The purpose for this was that local jurisdictions were handling domestic violence in different and often ways that were not consistent with each other. I think their goal was to come together -- to bring together lines of communication and to get on the same page, if you will, to work towards our goal, and that is holding offenders accountable and assisting victims of domestic violence. Along with that is the term coordinated community response. I can't say enough about that.

Currently, we have one detective from the Boone County Sheriff's Department, two detectives from the Columbia Police Department, myself and Randy Nichols. We have three investigators from Boone -- or assistant prosecutors from the Boone County Court that are assigned specifically to domestic violence, two representatives from probation and parole, two advocates from the women's shelter now called True North, two advocates from the Boone County court system and additional investigators, court liaisons, all part of this program. All right?

We meet on a monthly basis to go over case studies, cases we're currently working on, cases we've previously worked on as well as problems that we are seeing with our unit and ways to improve. Basically, it's a forum for us to bring about these problems, offer solutions and work to do a better job in our community helping victims of domestic violence.

Another thing I'd like to give a praise on is our relation with the advocates in our community. We have two advocates working directly with detectives. I have one in our office that we see on a regular basis. She splits her time at our office as well as the sheriff's department. We share our reports with them. We work together in a response to help victims and get them the services that they need.

Recently, there's been additional changes. Prosecutor Knight talked about Judge Daniels' domestic violence docket which is new, and not everywhere in the State of Missouri. It's a great way to streamline, and I'll let her talk more about that if she chooses. Another thing is the recent development through True North Shelter in cooperation with the Columbia Police Department, a local area women's shelter.

North Shelter in cooperation with the Columbia Police Department is a domestic violence first responder advocate. This is an effort to have an advocate available. We looked at statistics in our call volume of when was the greatest likelihood for someone after normal business hours to need services, and it's a tough position to fill. Nobody wants to work the hours this young lady is going to work, but she has stepped up, applied for the position, and I think we've got a good person in place now.

This advocate is going to respond when an officer finds certain criteria in a domestic violence call. We're talking about first responder blue uniformed officers on the street responding to calls saying these criteria are here. We're going to call out this advocate. She's going to stage in the area, and when it's safe to do so she's going to come in, and we're going to get her in contact with immediate services. I think this is groundbreaking, and I applaud True North for going forward with this and developing this. It's huge.

Also new within the past couple of years is a liaison the Court developed to help hold offenders accountable. We have something called MEND classes in our community which is a batterer intervention group. It's a 28-week course mandated by the Court for offenders to attend if they fit the qualifications. There had been problems in the past with accountability; not attending the courses as scheduled, and now there's someone to facilitate that, keep track of it and keep in contact with the Court. I think this is also a great step.

Yes, sir?

REPRESENTATIVE KELLY: Do you find that -- you know, I always had trouble with the anger management courses and all like that. None of them ever worked worth a darn. Do you find more success now?

MR. DOCHLER: Well, you know, I think especially now with Judge Daniels and her docket, and like Prosecutor Knight said holding their feet to the fire, I think it can only be better. And I think that time is yet to tell.

REPRESENTATIVE KELLY: How is that docket different than the docket we used to do?

She has both criminal and civil; is that right?
I just had the orders of protection.

MR. DOCHLER: Right. She is doing the criminal side, from what I understand, to streamline that -- streamline that and get people before the Courts --

REPRESENTATIVE KELLY: At the same time?

MR. DOCHLER: At the same time, yes. And I think Judge Schneider is doing the majority of the protection orders. Does that answer your questions?

REPRESENTATIVE KELLY: Yeah. Thanks.

MR. DOCHLER: You got me off track.

SENATOR SCHAEFER: He's good at that.

MR. DOCHLER: Basically, I wanted to demonstrate that we do have an open line of communication among all members of our domestic violence unit, and I think that is something we want to share with the rest of the State. Specifically my duties at the police department as a follow-up investigator, we were -- Randy and I wear many hats. Okay?

No. 1, is education. We take that seriously, and we have been asked to present all over the State of Missouri. And this started with Jeff Westbrook. He was a wonderful presenter and educator. We spend a good portion of our time traveling to other law enforcement agencies throughout the State, not so much to tell them that this is the best way to do it but to offer them ideas on how we do things in Boone County. And if they can take from that something useful in their community, so be it, and we're happy to do it.

Another thing that we do is educate on a local high school and college level. We've been invited into high school classes as well as University of Missouri to speak to their school of social work as well as their education department. Also we find it very helpful to educate people about domestic violence. Young people coming into this world, especially college kids, live in domestic situations and they're not even aware of it. So we like to spread that knowledge.

Specifically as an investigator and police officer do follow-up work. We pick up where the patrol officers leave off. In many communities -- I was talking to a detective from Cole County. Their deputies are responsible for their follow-up work in domestic violence cases, and if their call volume is anywhere near that of Boone County Sheriff's Department or Columbia Police Department, a lot of that work is probably not getting done. I think that is a huge area in which our agency and the importance we've put on it helps, because now 24 to 36 hours after the original call detectives such as myself and Randy Nichols are getting these cases assigned to us for follow up. We do follow-up statements from victims, identify holes in the cases to make a good solid case for the prosecution.

We're also collecting that necessary evidence, that follow-up evidence which is generally photographs which -- or the largest part to show what those injuries look like three days later.

The red mark that the officer saw that night and took a photograph looks drastically different three days later.

ATTORNEY GENERAL KOSTER: Can I ask Colleen a question?

MR. DOCHLER: Yes, sir.

ATTORNEY GENERAL KOSTER: As I -- as much as talking about the spousal privilege is -- has a first flush appeal to it, this seems like as impactful as anything in keeping a witness -- keeping a victim cooperative. If a detective who understands the issue pays a visit within 36 hours of the police coming to the home, I would imagine that is incredibly impactful.

MS. COBLE: It changes everything. When you show up it --

ATTORNEY GENERAL KOSTER: For a secondary statement, because the psychological effect of, you know, I need him out, please come and take him out versus I have now sat down with a detective from my local police department and put my word on the line. Big step forward.

MS. COBLE: Well, and I matter. You know, you've shown up. My case matters. And that's -- that engages you in -- and builds the trust that you need to go through with the case.

MR. DOCHLER: That is huge, yes. And if I may expound on that? It kind of leads right into my next thing; our case load.

Typically our case load at the Columbia Police Department, we receive 80 to 100 domestic violence cases per month. That's split up...
between two detectives. That's 40 to 50 each
that we require. Okay? Along with what you
said; that face-to-face contact. That is we are
grant funded through STOP. And like you said,
funding and cuts and people, it's a competitive
bid. We need that money to continue on our
goal. One of the things that we would like to
do to increase our service to victims is
increase the face-to-face contact that we have.
When we have an incredibly high case
load like we do now and something just -- we
have a homicide or something else happens in our
department that we have to respond to that takes
our resources, our cases don't stop. They
continue to stack up which means our level of
service sometimes drops until we can get caught
back up. That may mean they get a letter
instead of a face-to-face visit or a phone call
instead of a face-to-face visit.
ATTORNEY GENERAL KOSTER: Bob, can I
ask you a couple of questions?
MR. DOCHLER: Yes, sir.
ATTORNEY GENERAL KOSTER: What
percentage of follow-up interactions are
face-to-face -- or -- yes. What percentage of
the follow-up actions are face-to-face? And
then how many of those -- break those down
between visits that you pay to the home versus
visits where you've asked the victim to come
into the police station.
MR. DOCHLER: And not to shirk the
question, because it's a good question, but it's
a complicated question. I do not have the
percentages of face-to-face. I can tell you --
ATTORNEY GENERAL KOSTER: Just
anecdotally what would you guess? More than
half?
MR. DOCHLER: Less than half.
ATTORNEY GENERAL KOSTER: Less than
half are face-to-face?
MR. DOCHLER: Yes.
ATTORNEY GENERAL KOSTER: Because you
can't do 80 a month? There's not enough time?
MR. DOCHLER: Not enough time. The
ones that we -- and we strive to have
face-to-face contact with are especially the
ones that we want additional evidence.
ATTORNEY GENERAL KOSTER: Is standard
practice for the victim to come into the
department or for you to go to them?
MEETING 9/20/2010

1 going to hold me to the time constraint. I
don't want to hold things up. But basically,
that's an overview of the DOVE department in a
 nutshell.

We teach our own offices evidence-based
prosecution, and that is something that we think
is important to the successful prosecution of
these cases. There are some -- I was asked to
kind of brainstorm and think of some areas that
I thought would be beneficial to us as law
enforcement through a law enforcement
perspective to help in this crusade against
domestic violence.

No. 1, the ability to hold arrested
subjects for a minimum of 24 hours. Why is this
important? I'd like to explain. Quite often --
Prosecutor Knight was exactly correct.
We arrest someone for domestic violence.
Usually -- and I have seen it with my own eyes.
Within two to three hours the person has been
processed through our facility, processed
through Boone County, posted bond and is out.
Recently, we had a situation where a
suspect was arrested for domestic violence;
boyfriend and girlfriend, did not live together.

He went to jail, was allowed to post bond. She
got back to a friend's house for safety. She went
back to her residence to obtain some personal
items so that she could extend her stay away
from home until she felt it safe to come back,
and when she came back to get her property, he
had broken into the house and was in her bed
within a few hours. This should not be
occurring.

I believe that if we were able to put
something like this in place, a mandatory hold
on domestic violence arrests, the benefits would
be huge at multiple levels. One, there would be
a definite cooling-off period. Domestic
violence is full of emotions and a period like
that would give people the opportunity to cool
off. Second, suspects of domestic violence are
quite often intoxicated or under the influence
of some other kind of drug. This would be a
sobering up period. Third, domestic violence
victims; we often -- on the street we give them
several remedies. Hey, let us help you get out
of this situation. We always question why are
they going back to the situation.

Well, you know what? If we'd step back
and take a look, we're asking victims to make
difficult life-altering changes; to make moves of
households, children sometimes, property, all
things that are of great value to them, and
we're asking them to do it in a timeframe of a
few hours in fear that he's going to come back
out and catch them in the process.

I think this would be a huge step in
giving them the time to think about orders of
protection with a clear mind, think about the
services that are available to them and get
connected with victim services, such as True
North Shelter, and then take it a step further;
if they're ready to leave an abusive
relationship to give them the opportunity to get
out.

Second, if I have -- am I over?

ATTORNEY GENERAL KOSTER: Go ahead, Bob.

MR. DOCHLER: Currently, law
enforcement officers in our state such as city
police officers do not have the ability to hold
someone that they come across that is a
respondent of an ex parte and has not yet been
served. To help clarify that let me give you an

example, a quick one.
I arrest someone for domestic assault.
He bonds out within a few hours. The victim in
the meantime has obtained an order of protection
or an emergency order of protection but he
bonded out before he could get served. I run
into him at QuikTrip, and I make a simple
inquiry through our joint communications, has
this gentleman been served yet? No. He got out
before he could be served. Unless I have
another violation I cannot hold this individual
until a Boone County Sheriff's deputy responds
with the appropriate paperwork. If we're
looking at victims' safety this is a problem.

REPRESENTATIVE KELLY: And tell why
that's important, though, to serve them. Nobody
understands that if you can't serve them, you
can't get the criminal violation.

MR. DOCHLER: If it's not served, it's
not in effect. Okay? That's why Prosecutor
Knight mentioned the no-contact provision. I
think that is huge. If we could make that --
it's one of the loopholes that could be plugged.
You know, orders of protection are not the best
option for every victim of domestic violence.
It's just -- it's not the best option for them all.

The ones who choose not to, it's kind of nice to know that there's a mandated condition through this bond that he can't have any contact with her. And folks, sometimes they don't even wait to get out of jail before they start to contact them. We've got jail calls to prove it. They'll call wanting them to post their bond. They start in with this intimidation towards victim tampering, but, again, it is something that is very difficult for law enforcement to prove.

We all know that probable cause to arrest does not always equate to proof beyond a reasonable doubt for successful prosecution, and --

ATTORNEY GENERAL KOSTER: Bob, there are constitutional issues so I don't even know if what I'm about to say is a good idea, but let me throw it out there.

MR. DOCHLER: Sure.

ATTORNEY GENERAL KOSTER: What if there was a -- kind of a three-part process that we went to; a 12-hour mandatory hold, a 48-hour condition of probation where there is no contact automatic, and a demand that the defendant or the subject return to the sheriff's department at the end of the 48-hour period essentially to make an affirmation that there's been no contact? But what it does is it gives you an opportunity to serve him if there's been a -- some kind of order of protection -- temporary order of protection has been obtained in the interim.

REPRESENTATIVE KELLY: I knew there was a reason I voted for you. That is a really, really interesting idea. It really is.

MR. DOCHLER: And, you know, sir, in response I'd say any efforts towards making changes towards that I'd clap my hands and say thank you. And, you know, the best you can do is put it in place, see how it works, and if additional changes need to be made down the line, re-assess and go forward.

ATTORNEY GENERAL KOSTER: Do you have other -- yes, ma'am?

MS. NEWMAN: One other question. For those of us who are not in law enforcement, can you explain, just very briefly summarize, what are your conditions for domestic violence arrests?

MR. DOCHLER: Our conditions for us to make an arrest?

MS. NEWMAN: Correct.

MR. DOCHLER: I'd be happy to. No. 1, we make -- generally we're responding to a call for help; 911 call either from someone involved or a bystander worried about someone's safety. Officers arrive on the scene, and they need to make some quick assessments. One, has a crime been committed. You know, in this case usually assault or some of the other violations that go along with it. We need to determine if it's a domestic violence situation, and that can -- we're all familiar with the intimate partner; husband, wife, boyfriend, girlfriend, etc., but they also include anyone who's 17 years or older who may live in the same house or be blood related. It all falls under the domestic violence laws. We only deal with intimate partners on a follow-up basis.

To answer your question. We need to determine, one, has a crime been committed; two, does it fall under the domestic violence laws,
If the suspect is not there, it's mandated that we do certain things too. In addition to offering judicial remedies, how to get an order of protection, offering of medical assistance to the victim, we are mandated by our policy to make a good faith effort to locate that suspect within our shift immediately, put out other information; we call it stop and hold information to all officers; be on the lookout for John Doe wanted for domestic assault. This is his description. And then if we cannot find him in our good faith effort we will go back to the police department and submit a warrant request to the prosecuting attorney's office before the end of our shift. That is how seriously we take this.

Does that answer your question, ma'am?

MS. NEWMAN: Yes, sir. Thank you.

ATTORNEY GENERAL KOSTER: Any other questions for the detective? Thank you, Bob. Not only have you provided a wealth of really good information, but for all the people who are Columbia residents in the room, what they clearly have is not only a person who's making a difference in their community but a guy who very sincerely -- the sincerity of your commitment to learning the issue and making a difference comes through very strongly. So I thank you on behalf of a lot of people who I'm sure want to thank you.

MR. DOCHLER: And I thank you for all your time. Have a good day.

ATTORNEY GENERAL KOSTER: Next up is Detective Robert Bruchsaler and Catherine Vannier. Detective Bruchsaler is with the investigations and narcotics division of the Cole County Sheriff's Department. Welcome and thank you for coming and speaking with us today.

Catherine is the family violence resource prosecutor with the Missouri Office of Prosecution Services. Welcome and thank you for coming and speaking with us today.

Catherine is the family violence resource prosecutor with the Missouri Office of Prosecution Services. Catherine, if you'd like to sit with us at the witness table, and we'll just go one following the other.

TESTIMONY

BY MR. BRUCHSALER:

Well, thank you for having us. We appreciate it. I'm here to talk about training of law enforcement officers on the academy level and afterwards.

What I've learned so far this morning is that I probably should touch on a couple subjects before I get into the actual training part, and I want to talk about victim advocates; system victim advocates.

My colleague from Columbia is a very fortunate individual. Columbia is very fortunate to have a DOVE unit and to have so many people available for resources. But when we talk about rural areas such as where I'm from in Cole County and others, I teach at the Missouri Sheriff's Association Academy, and I teach young men and women from across the State, but mainly Central Missouri where we don't have all those resources available to us.

What I do have in my county is a victim advocate. She's system based. She's paid by the State, works for our prosecutor. Without her our domestic violence cases would be nil, none. We wouldn't get anywhere. Anywhere fast anyways. Our deputies start the domestic case and they end the domestic violence case through its end goal. If it's a felony level domestic violence case, I will pick it up and assign it to one of my detectives or I'll take it, and we do our best. But without her out there in the frontlines with us every single day our victims suffer. And this is what it's all about. At the end of the day it's about the victim and making sure that that victim gets to the resources that they need to get to and get the help that they need.

I can't stress upon this committee enough that there's just not enough of them out there. We have one for an entire county and city; Jefferson City, Missouri, and there's no way she can touch them all. It's impossible, you know. And I've worked with her hand in hand at two, three, four o'clock in the morning, going 36 hours straight, and she's a trooper. And everyone that's like her that's out here in the State of Missouri are the same. So I -- it's incumbent upon the State of Missouri to try to get some more of those people out there working for us because law enforcement in a rural community doesn't have the time to follow up the next day or the next two days or three days later to meet that victim face to face. We try our best. We do what we can. But at the end of the day that's the person that does that job for us. All right. Off my soapbox, and...
onto training.

We offer 40 hours of basic training for domestic violence at the academy level. It covers the gamut from what is domestic violence to how we deal with domestic violence, how do we respond to the call, what's the safest thing to do, how do we help our victim, what are we required by law to do, what we're, you know, required to let our students know, what they have to do for the victim, and at the end of the day that's what it's about for me.

ATTORNEY GENERAL KOSTER: To proportion that remind me of the number of hours required for a peace officer certification.

MR. BRUCHSALER: Well, it's minimum of 40 for peace officer certification. I think the statute says 30 but we do 40.

ATTORNEY GENERAL KOSTER: That's 40 for domestic violence.

MR. BRUCHSALER: Correct.

ATTORNEY GENERAL KOSTER: But for the entirety of the peace officer certification. To get POST certified as a deputy sheriff in the State of Missouri.

MR. BRUCHSALER: Minimum is 470.

ATTORNEY GENERAL KOSTER: 470. So a substantial part of the 470 is dedicated; 10 percent dedicated to this issue.

MR. BRUCHSALER: I just spent the last two weeks teaching a class of students domestic violence. It was over a week long.

I'd like to go over the objectives so you know what we're doing in the schools, what we're teaching. And I'm just going to briefly cover each objective, and then if you have any questions about those objectives, please let me know, and I'll try my best to answer them.

They're up there if you want to read them.

We define the term crisis and identify two common crisis responses by victims to law enforcement. We explain the difference in perception of domestic violence between the peace officer and the victim. We define domestic violence. We define the term abuse as it relates to domestic violence calls under the Missouri Adult Abuse Act. We define family or household member under the Adult Abuse Act. We list the common characteristics of a batterer.

We identify the main causes of battering and how it relates to mental disorders. We list and describe common characteristics of victims. We describe the emotional effects of domestic violence on children. We list elements of emotional abuse. We list elements of physical abuse and sexual abuse. We describe significance of the power and control wheel as it relates to domestic violence.

We list and describe the three phases of the cycle of violence. We list and describe reasons why leaving is so difficult for victims of domestic violence. We list three instances or conditions for which immediate response to domestic violence calls is mandated by the Missouri Adult Abuse Act. We define the term primary physical aggressor as it relates to the Missouri Adult Abuse Act, and list three factors considered when determining the identity of the primary physical aggressor.

We identify two types of protection orders available under the Missouri Adult Abuse Act and describe the differences between them. We list the five criminal terms and conditions that may be included in an ex parte and full orders. We list three situations or instances when peace officers are required to make an arrest with probable cause under the Missouri Adult Abuse Act. We identify when mandatory reporting is required under the Missouri Adult Abuse Act. We list two services that the Missouri Adult Abuse Act requires peace officers to provide victims of domestic violence.

We list and explain the elements of the following crimes: First degree domestic assault, second degree, third degree, stalking, aggravated stalking, interstate domestic violence, interstate stalking, interstate violation of order of protection, possession of a firearm while subject to protection order, possession of a firearm while subject to protection order, possession of firearm after conviction of a misdemeanor crime of domestic violence.

We define the full faith and credit as it results to foreign orders. We list the circumstances when an officer is or is not immune from liability in any civil action alleging false arrest, false imprisonment or malicious prosecution concerning domestic violence situations. We list the general
guidelines for law enforcement responses to domestic violence calls. We list primary points that should be included in an officer's investigation and report concerning domestic violence. We list interview techniques to consider during domestic disturbance. We list additional dynamics to heterosexual domestic violence faces by same gender survivors. We describe why coordinated community response to domestic violence is important. We list and describe four profiles of stalkers and demonstrate through role play the proper techniques to diffuse domestic disturbance and the proper methods to handle domestic violence situations.

For me when I'm teaching I think the most critical part of this whole thing, and I can go through all these objectives with all these students, is evidentiary issues. For me I'm a proponent of no victim should ever be in a court of law. No need. If an officer is doing their job upfront and is trained properly, they can make such a case to where the victim should never have to step foot in a court of law. And that's what I teach.

I teach them how to make the best case possible; to describe when they're writing their reports the emotional state of both parties, the demeanor of both parties, the photographic evidence, the medical evidence, the follow-up days afterwards to make sure we get those two or three-day later photographs. To bring that victim advocate to bear so that that victim has somebody -- a face to identify with and that person is going to remain cooperative. That they know they have somebody to go to 24 hours a day.

When we talk about role playing, you know, I put these young men and women through some pretty heinous stuff. We bring in people that have been prior victims of domestic violence and have them talk to the students. I bring in the assistant prosecutor and have them talk to the students about what it takes to make a case. I bring in the victim advocate and talk about what that person does with the students. When they do these role playing exercises, they do everything from the most violent deadly force situations to the most passive moments where you've got a victim that just won't talk that's

seriously beaten, and how do you handle that. I teach them compassion, the foremost -- is probably the most important thing when it comes to relations with the victim is compassion.

You know, these kids are on their fifth or sixth domestic violence call for the night, their tenth for the week, their fiftieth for the month. You tend to get a little burned out, and it's always good to show them that you need to step back and put your biases in your pocket and realize that you're there for the victim, and that's -- at the end of the day that's what we've got to accomplish is make sure the victim gets justice.

ATTORNEY GENERAL KOSTER: Where is the academy located physically?

MR. BRUCHSALER: Well, the Missouri Sheriff's Association has academies -- academies all over the state. The one I teach at is in Jefferson City, Missouri.

ATTORNEY GENERAL KOSTER: And how many classes a year does the academy rotate through?

MR. BRUCHSALER: In Jefferson City we do full time and a part time every year; full-time academy and a part-time academy.
individual to your academy? Do you know the answer?

MR. BRUCHSALER: Well, statutorily they're required to provide that much training at every academy regardless of what academy you go to.

ATTORNEY GENERAL KOSTER: Okay.

MR. BRUCHSALER: Now, follow-up training afterwards is incumbent upon that department and what they're willing to put forth. You'll find that most departments that I've seen really work hard at making sure that the domestic violence training follow-up after you graduate the academy and you've been on the road for a while and it's part of your regular 48 hours every reporting period, they cover it. We do. At least in my jurisdiction.

ATTORNEY GENERAL KOSTER: That's the continuing law enforcement --

MR. BRUCHSALER: Continuing education, yes.

ATTORNEY GENERAL KOSTER: Continuing education requirement is 48 hours a year?

MR. BRUCHSALER: Yes. Well, three years.

ATTORNEY GENERAL KOSTER: 48 hours every three years?

MR. BRUCHSALER: Yes, sir.

ATTORNEY GENERAL KOSTER: Other questions? I want to welcome State Representative Mary Still who's joined us this morning. Thank you for coming. Thank you for your service as well.

REPRESENTATIVE STILL: Thank you.

ATTORNEY GENERAL KOSTER: Colleen, go ahead.

MS. COBLE: I just want to follow up on your statement given in our earlier discussion this morning about spousal privilege and your approach to doing investigative work so that the case can be made without a victim's testimony. How widespread do you think that approach is among your colleagues?

MR. BRUCHSALER: Well, I can only speak for my jurisdiction, and I preach it every day. Either that's a nasty e-mail for why didn't you take more photographs to, you know, great job. Or when I teach my fellow officers domestic violence I discuss these issues: You need to do a better job of getting photographs of the entire house; how much disarray it's in. The suspect, I need a full frontal photo. I need a full body shot of him. I want to know what his demeanor is.

I want to give my prosecutor every possible tool they can have in their tool bag so when they get up in court they can do their show up on the big screen and go, look at him. He's sitting over here in a three-piece suit and, you know, has a nice haircut, but here he is in the wife-beater looking like he's wanting to kill somebody. Not the same guy. You know, the blood trail through the house, the broken dishes, the busted plant holders, whatever it is.

We just -- sometimes we don't do a good enough job of getting the evidentiary stuff that we need to make our case. Or I get that two or three photos of the victim's injury but I don't get a picture of the victim. And I want to see her demeanor. I want to see her fear. I want to see her emotional state when we get up on the stand. I want that picture on the wall. That's what makes a jury --

MS. COBLE: What do you think is the biggest obstacle to being able -- is it training or is it a combination of training, resources and perhaps even leadership from within the department?

MR. BRUCHSALER: All of those things. Every single one of them. It's training. It's lack of resources. It's -- I've got -- I'm stacked up five calls. I've got to get going. You know, I've got to get this victim somewhere where she needs to be. I've moving quick. Supervisor not showing up to the call for whatever reason. Maybe they're on a different call. You know, depending on your manpower really. But it does come down -- at the end of the day it's about compassion and training. You know, I've got to do my best, and that's what we preach at Missouri Sheriff's Association. We try to teach them to, you know, give it everything they've got for that moment. And you've done your job for that day. No matter what happens tomorrow at least we've accomplished this today.

ATTORNEY GENERAL KOSTER: Colleen, what is your -- what is your reaction, Colleen, to the training question? I mean, my reaction --
<table>
<thead>
<tr>
<th>Page 106</th>
<th>Page 107</th>
</tr>
</thead>
<tbody>
<tr>
<td>think I knew but had forgotten that there was a 40-hour requirement, but when you consider the fact that 10 percent of training resources approximately are dedicated, at least at the standard peace officer level, because the highway patrol has got a higher training requirement, are dedicated to this, my sense is that the training piece is pretty strong in Missouri. What is your feeling?</td>
<td>extrapolated them for the State, and I got an absolute minimum of 35,000 cases a year in Missouri, and Colleen thinks it's 38 to 40,000. But 35,000 cases a year. You're right now able to train 30 new people a year.</td>
</tr>
<tr>
<td>MS. COBLE: I think as a percentage it's strong. The question is the ongoing training and for officers POST -- they've gone through the POST certified to get their commission, but what are we doing as follow-up and ongoing training. And I know that's a lot of what Catherine does.</td>
<td>MR. BRUCHSALER: Well, that's new people.</td>
</tr>
<tr>
<td>MR. BRUCHSALER: Well, we have Catherine.</td>
<td>REPRESENTATIVE KELLY: Right. But that does not -- the State of Missouri could do a lot better. If we take the concept of domestic terrorism seriously, we could be allowing you to train 300 a year.</td>
</tr>
<tr>
<td>MS. COBLE: And there's one person. You know, what are we doing around the State?</td>
<td></td>
</tr>
<tr>
<td>ATTORNEY GENERAL KOSTER: And there's no mandatory -- you know, to say two hours every three years for domestic violence continuing education. There's no continuing education requirement?</td>
<td></td>
</tr>
<tr>
<td>MS. COBLE: No. And part of the things that were discussed at the St. Louis hearing was that there's also -- there's no mechanism for evaluation. There's no mechanism in our state to be able to say this is what's going on in Cole County. We can see this by the number of convictions, by the number of arrests, by the number of -- failure to have the repeat offenses again and again with a second victim or a third. This is what we're finding out in these counties, and be able to draw some public policy guidance from it that says that because we had this kind of training and leadership or we had these kind of resources. We don't have that structure in place to be able to know anything other than what we know now which are the bright spots which are the exception and not the rule.</td>
<td></td>
</tr>
<tr>
<td>REPRESENTATIVE KELLY: You know, to follow up on your question with the training. You say you could train 30 people a year.</td>
<td></td>
</tr>
<tr>
<td>MR. BRUCHSALER: We could train a lot more but --</td>
<td></td>
</tr>
<tr>
<td>REPRESENTATIVE KELLY: You do train 30 people a year. Being a numbers geek I was fooling around with the Boone County numbers and</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Page 108</th>
<th>Page 109</th>
</tr>
</thead>
<tbody>
<tr>
<td>several. So it's being done. I just don't know to what scale. I know what I do. I don't think you can legislate like racial profiling. I think what we've found out with racial profiling is that it becomes stagnant, and it's an hour every year, and it's the same hour every year over and over again. There's nothing new. So I don't think you can do that with domestic violence. I think domestic violence -- it's incumbent upon departmental entities to take that on and move forward. DOVE units are great. We'd love to have one. We've allocated space in our new facility to have a DOVE unit. We've got the ground for it to do it. We just need the grant to get it done.</td>
<td></td>
</tr>
<tr>
<td>ATTORNEY GENERAL KOSTER: To the State reps at the table. One of the issues that has come up with regard to racial profiling -- and it's interesting that you bring this up because there are some sort of training parallels and reporting parallels -- is this issue of agency certification. We -- police agencies, police departments, do not have a mandatory certification in the State of Missouri. If you</td>
<td></td>
</tr>
</tbody>
</table>

www.midwestlitigation.com
MIDWEST LITIGATION SERVICES
Phone: 1.800.280.3376
Fax: 314.644.1334
1 talk to police chiefs you pretty quickly get an
2 idea that going from where we are now to
3 mandatory certification is an awfully big step
4 to take in one step, but that there is an
5 openness among police departments around the
6 State to encourage an expansion of voluntary
7 certification.
8 Whether it's domestic violence or
9 racial profiling or any of the other things
10 where public policy, you know, is increasingly
11 getting a spotlight on it, bringing best
12 practices across the departments around the
13 State is -- you know, there's 750 departments
14 out there now.
15 A lot of them like Columbia or Cole
16 County are probably in a situation where they're
17 toward the front of the best practices efforts,
18 but a lot are not. And doing more -- thinking
19 more about agency certification is a tool that
20 on a lot of things that we care about as public
21 policymakers is a good way to spread the message
22 across that 750. I think probably it has to be
23 voluntary, but it's an idea that is brewing
24 pretty well, I think, right now among police
25 chiefs across the State.

1 Go ahead, Mary.
2 REPRESENTATIVE STILL: Thank you. To
3 pick up on that point. I think what we've seen
4 in society and in my years working in the
5 attorney general's office as well is the
6 mindset. And there is a parallel in some ways
7 to racial profiling. I've always said that
8 about racial profiling; there's a parallel to
9 domestic violence. If you're not in that
10 situation, you don't recognize it. If you came
11 from a solid family and that didn't exist, you
12 don't know about it. And if you're not black,
13 you don't recognize it on the racial profiling
14 aspect of things. So it is things we have
15 learned.
16 I think we used to with domestic
17 violence say well, we don't believe that really
18 exists. And then we evolved as a society and
19 said, okay, it exists but not very often, and
20 then we kind of go through -- and then there's
21 sometimes an attitude I've seen in areas of
22 well, bums marry bums. What are you going to
23 do?
24 I see it as -- best practices as a way
25 to bring standards and acknowledgement of things

1 that we as a society are learning when it's not
2 really been our personal experience. And along
3 those lines, I just wondered those of you who've
4 had experience in the courtrooms, how this is
5 with juries and if there's certain parts of the
6 State where it is more accepted and less of a
7 concern than other parts.
8 ATTORNEY GENERAL KOSTER: Dan, do you
9 want to answer that question?
10 MR. KNIGHT: I wasn't listening.
11 ATTORNEY GENERAL KOSTER: The question
12 is how do you feel that juries respond to this
13 issue as a group?
14 MR. KNIGHT: Domestic violence in
15 general? You know, it's hard to say. I think
16 that, you know, certainly those issues need to
17 be explored during jury selection. It's a very
18 important part of any case, particularly in
19 these cases. I mean, what would be the issue
20 there?
21 ATTORNEY GENERAL KOSTER: Whether the
22 implication was there or not that there's an
23 implication that some areas of the State are
24 more culturally, I don't know, forgiving. If
25 that's the right word.

1 REPRESENTATIVE STILL: Callused;
2 callused about it.
3 MR. KNIGHT: That could be.
4 ATTORNEY GENERAL KOSTER: I am not --
5 MR. KNIGHT: That could be. I don't
6 want to disparage any particular county at all.
7 ATTORNEY GENERAL KOSTER: And I'm not
8 sure that's true. I think that no matter where
9 you are in the State, I think you put 12 people
10 together and they take the problem seriously if
11 it's presented seriously.
12 REPRESENTATIVE STILL: Good. I hope
13 you're right.
14 ATTORNEY GENERAL KOSTER: Catherine,
15 the floor is yours.
16 TESTIMONY
17 BY MS. VANNIER:
18 So I wanted to start by saying thank
19 you. It is -- we who do this work and are
20 frontline workers, they are some of the saddest
21 and most traumatic cases that our frontline
22 workers encounter. They take time. They are
23 easy to minimize and tough to sort out, and yet
24 they are some of the most vitally important that
25 our frontline workers encounter every day.
It is easy to get frustrated and sad and full of despair as a frontline worker in this work. When we get together like this and talk about it and see issues and have discussions and -- so I want to thank Mr. Attorney General and the members of the task force because literally -- and Ms. Coble as well, because this is quite literally a dream come true. So if I stutter or get a little emotional it's because my heart is in my hands because I'm so excited about this opportunity.

My job is I am the family violence resource prosecutor for the Missouri Office of Prosecution Services. I provide training and technical assistance and resources to prosecutors, law enforcement and all of our allied professionals. I was asked to talk to you today about training law enforcement, and I do a heck of a lot of it. It is my pleasure. It is one of my favorite -- of course, I have many favorites to this job, but one of my favorite parts of the job because our first responders are so very important to the work that we do. They have such an enormous impact on our cases and how our victims are going to survive these situations and how our abusers are going to be held accountable.

So I have a little Powerpoint. I took it down from about 120 slides to 20 so it's just going to be real quick. I promise. This is basically a synopsis of the type -- the most common training that I do, and this is to distinguish from what Sergeant Bob was talking about. This is the continuing ed piece. This is a 4-hour class. It has been -- I have done it as long as 8 hours, and so 4 to 8 hours in many, many different jurisdictions around the State trying to reach those law enforcement agencies that maybe don't have the resources that Boone County does. Cole County is one place that I've been a whole lot. Gosh. Bob is probably a little sick of me I've been there so much. But they're good with it, right?

MR. BRUCHSALER: They're all good.

MS. VANNIER: So the -- I'm going to try to tell you about this because this has worked pretty well. What we have is a series of slides and training examples. I try to use -- I try to keep it lively. I try to keep it lively, try to keep it interactive and most important to keep it positive and upbeat as we look at this and we talk about what the best way is to respond. This is one of my new favorite slides because one of my parts about this job is how many heros I get to meet across the State of Missouri, and the wonderful things that they do. And one of my jobs, I think, is to inspire folks to be the best they possibly can, and to understand that they are doing just phenomenal work when they respond in a positive and supportive fashion to victims.

I have a video that is fairly graphic that I play from the -- that was prepared by the California POST program for peace officer standard training in California. I do use 911 calls, other ways of trying to bring home the importance of presenting these cases as strongly as possible in Court. And also to understand the importance of bringing this proof to court at the level of a misdemeanor before it gets to that level of homicide. We do know that the more we can hold abusers accountable at a misdemeanor level, we are doing nothing short of homicide prevention.

US Department of Justice tells us between three and four women per day are killed by their intimate partners. That statistic and all the studies that we do drive me nuts because they don't include the children and the grandmas and the peace officers and the innocent bystanders along with the tragic things that happen all the time. So it's very important that we bring that home.

We try to use case examples. This is one case example that I use. It's an actual case. What we try to do is look at these and try to figure out what we can learn from them. We try to talk about how to respond to victims, understand the stress reactions that victims may have in responding to these cases. We try to take this -- this is a power and control wheel, but it's one of my favorite versions of the power and control wheel because we try to look -- this is a tool in teaching about domestic violence. We want to look at the dynamic of domestic violence, but I also understand that this is absolutely very useful in law enforcement because it allows for us to -- first, there was some talk earlier about the determination of the dominant aggressor. This
1. is a pie chart to the determination of the  
2. dominant aggressor. It is also a way of seeking  
3. additional charges because we have to be  
4. creative and use every possible charge and every  
5. possible tool we have.  
6. I have done -- there have been a number  
7. of places, Cole County being a very good  
8. example, where I've been asked back. So I've  
9. tried to continue that continuing ed. So I've  
10. developed additional courses. What has come out  
11. of our dominant aggressor conversation is a  
12. whole new separate class on dominant aggressor.  
13. We have now a special issues -- just next week  
14. I'll be in Kansas City doing special issues in  
15. investigating domestic violence cases; stalking  
16. and strangulation.  
17. I think absolutely that we need to have  
18. a continuing ed requirement on domestic  
19. violence. I think it's very important the --  
20. that we also avoid the trap that Sergeant  
21. Bruchsaler -- that he was talking about, the  
22. racial profiling rut that we've sort of fallen  
23. into. So we want to be careful of that, and we  
24. want to be sure that we have quality and  
25. meaningful training, but we do want to keep up  

<table>
<thead>
<tr>
<th>Page 118</th>
<th>Page 120</th>
</tr>
</thead>
</table>
| 1. be able to assist us in prosecution. We do know  
2. now that a number of our cases are going to  
3. require that right of confrontation that the  
4. victim be present in court because so many of  
5. our cases are delayed reporting, and we don't  
6. have excited utterances, and we don't have the  
7. immediate investigation that happened. So we  
8. talk about that and ways to look at that.  
9. We look for additional ways to find  
10. evidence. We talk about the importance of  
11. follow-up investigation. This is one of my  
12. training examples. This is -- a good solid  
13. investigation happened in this case. She had a  
14. red mark to the eye, domestic assault third was  
15. charged. She had a good advocate working with  
16. her after the incident was charged who talked  
17. her into getting follow-up medical treatment. I  
18. think a lot of our victims go without the needed  
19. medical treatment after the fact. But she was  
20. talked into it. She had a blown-out orbital  
21. bone so the case went from a domestic assault  
22. third to a domestic assault first because of the  
23. help of the advocate in that case. Very, very  
24. meaningful help there.  
25. So we talk about the different ways  

<table>
<thead>
<tr>
<th>Page 119</th>
<th>Page 121</th>
</tr>
</thead>
</table>
| 1. that training as much as possible.  
2. We go through the statutory  
3. requirements, of course, and case law, reasons  
4. to care about cases. Of course, we know so much  
5. about the impact of children in violent homes.  
6. We go through the nuances of handling children  
7. in an investigation, how to interview, how to  
8. work and document their presence. We  
9. specifically talk about the burden of proof;  
10. that a prosecutor has a much higher burden of  
11. proof than a law enforcement officer. A law  
12. enforcement officer is also looking at probable  
13. cause, and we're going to beyond a reasonable  
14. doubt and working that as well.  
15. We look at the legal requirements and  
16. documentation issues. Of course, just exactly  
17. like the good sergeant talked to us about we  
18. want to follow up with that with continuing ed,  
19. talk about developments in case law,  
20. particularly with respect to the issue of  
21. proving cases without victim's cooperation. One  
22. of our issues now that we're -- that Dan Knight  
23. referred to earlier is right of confrontation.  
24. And so we do everything we possibly can to build  
25. that case whether or not the victim is going to  

|----------|----------|
| 1. that the police report is going to affect all  
2. the different players in the system. We talk  
3. about -- much like the standard POST objectives  
4. for the basic training, for recruit training, we  
5. talk about the charges that are available.  
6. We want to make sure and go over some new  
7. developments in the charges and offer creative  
8. fact patterns so that we can look at the ways  
9. that -- for instance, I often refer to Boone  
10. County and how they do things in my training  
11. because they're doing such cool stuff.  
12. I hold them out as an example elsewhere  
13. in the State where they might not know about  
14. this otherwise without this continuing ed, where  
15. they might not hear about it. So one of my jobs  
16. that I see is to bring that news, that -- to  
17. preach the word, so to speak, but anyway. Does  
19. Good. I am religious, and I do want to preach  
20. the right word.  
21. So -- and, of course, the importance of  
22. their work and the responding to victims  
23. supportively and getting them the resources that  
24. they need and how much of a difference it can  
25. make. So when we talk about what other -- so
that's what I do.

What other training is available in terms of continuing education: of course, Bob Dochler mentioned that Boone County does get out and about in the State, and there are a number of individual programs that are doing their best to provide training on a continuing basis and doing great work. One of the things that I try to do is to network these programs so that there is some cohesion in that training so that we can put our best foot forward and get to every possible jurisdiction, because as you mentioned there are almost 800 law enforcement agencies in the State of Missouri, and we have a big giant state to cover to get that consistency.

We have national training, of course, that's available. It's, of course, expensive and hard to get people to. We do our best to try to get scholarship information to people so that we can get them out there. I have a statewide annual conference that I've done. We're about to sign a contract for our fifth annual which will be next year in 2011 which is always POST certified, and we have a number -- an increasing number of law enforcement officers that come to that.

We -- but we do need to look at what else can help, what else we can do. The special units make such a difference. Where we have the resources they make a huge difference. But they're not everywhere, and there are places where there is no special designated person, and I think it helps to have a designated person; in a large or small jurisdiction to have somebody whose job it is to know about this stuff. To get the training, to foster that teamwork.

I have seen so many instances where one motivated person in a community, large or small, can really, literally change the world and make such a huge difference. In terms of fostering teamwork, of course, I appreciate the work very much, I can't say that enough, of this panel, but I also think that an ongoing multidisciplinary statewide commission would help with the issues that we're talking about here. We've also mentioned, I don't think today yet, but in St. Louis, enabling legislation for fatality reviews. We do not have any enabling legislation here in the State of Missouri, and we have several groups in our larger communities, yes, but even in smaller communities that are interested in studying these tragedies and learning from them and strengthening our system so that a victim never dies in vain. And that's another multidisciplinary effort that needs to happen here in the State of Missouri so that we can move forward beyond those tragedies.

We also know that training is perishable. It needs to be reinforced constantly and continually. Those who know me and hear me preach know that gentle relentless pressure is one of my mottos. I think that we -- when we are responding to these cases we have to keep up the pressure. We have to have consistent policy enforcement. Part of that consistency is feedback, constant feedback; good, bad and ugly. Honest, direct and respectful feedback where we work with each other to know what's working and what's not. I think that part of that feedback, though, is to talk about what's working and the gratitude that we have for a job well done.

So often, especially our first responders, don't get to see the end result.

They don't get to hear about the lives that they've saved or -- they're just called out to the next case or, you know, the next time it happens again in the same family, and they don't get to see the children that grow up to be prosecutors and law enforcement officers instead of victims and prisoners, and that's important.

I think that's important that we have a system of recognition here in the State of Missouri to allow -- to recognize those officers and the work that they do.

Before I finish off I have a story that I like to share often in my trainings that a law enforcement officer shared with me about a case that he went to early in his career. It was a domestic call, and it was in a remote area, and he was a one-man car as most of our officers are. He -- it was mom and dad and a five-year-old girl on the scene. Mom and dad -- very volatile scene. He couldn't get dad calmed down, and he decided that he was going to take dad back to the station before he came back and completed his investigation. And he said as he drove off he saw momma and the little girl holding momma's hand in the -- there was a
MEETING 9/20/2010

1 picture window in the front of this house --
2 standing in the picture window, and he couldn't
3 read them. Their faces were like this. He
4 said, I don't know what I'm coming back to.
5 When he got back the little girl had drawn him a
6 picture, and it was a picture of him driving her
7 dad away in the patrol car and it said, thank
8 you. And he talks about that. I've met him a
9 couple times now. It's that kind of motivation
10 that we need to keep up in these cases, and
11 that's how we're going to get good consistent
12 response.

ATTORNEY GENERAL KOSTER: Thank you,
13 Catherine, for a great presentation and for the
14 work that you do all over the state of Missouri.
15 Questions for Catherine?
16 REPRESENTATIVE STILL: I have one.
17 ATTORNEY GENERAL KOSTER:
18 Representative Still?
19 REPRESENTATIVE STILL: You were talking
20 about a part of your presentation is about the
dominant aggressor. So I guess is it you kind
21 of keep up with psychological studies and
22 warning signs; is that what you're talking
23 about?

2 Good question. Yeah. We have -- it's a very
3 nuance determination. Bob mentioned the role
4 playing that he does in the academy. That's a
5 perfect example because it can be very hard for
6 law enforcement to sort out. You know, they
7 often arrive on scene and everybody is screaming
8 at each other, and they have to figure out
9 what's really going on. So looking for that
10 imbalance of power and control that -- where one
11 party is in control of the other, looking for
12 ways to determine who's telling the truth and
13 who's not. Looking for motivations where a
14 victim might even not be completely honest
15 because she's got her own safety and her
16 children's safety to consider after law
17 enforcement leaves that night.
18 REPRESENTATIVE STILL: Are there
19 certain crimes or previous crimes that are
20 indicators or --
21 MS. VANNIER: Well, I mean, certainly
22 the law says we have to look at the history of
23 domestic violence in a relationship in order to
24 determine who is the dominant aggressor. The --
25 so absolutely we want to look for that history

ATTORNEY GENERAL KOSTER: What is your
2 recommendation in terms of continuing education,
3 number of hours, say, for a three-year period
4 which is how the system is set up now? I mean,
5 from -- if you're thinking -- if you were in a
6 legislative position what's the number that you
7 would recommend?
8 MS. VANNIER: I would say at least four
9 hours a year. I would almost like to see -- I
10 know Boone County had a program for a while
11 where they were training a full day every year.
12 And, you know, you see these phenomenal
13 investigations that come out of Boone County and
14 you think a day every year they talk about this
15 stuff and remind themselves of what needs to be
16 done, and that's great.

ATTORNEY GENERAL KOSTER: Detective, do
1 you have an observation on that question; the
2 number of hours per three-year period? It's a
3 48-hour commitment per three-year period now?
4 MR. BRUCHSALER: I don't know that a
5 day is enough but a day will do. I don't think
6 that you can do it like racial profiling
7 however. I think it has to involve people like
8 Colleen. People like Catherine have to be
9 involved in that process as to what kind of
10 training. It has to be updated constantly.
11 Things change every day so --
12 ATTORNEY GENERAL KOSTER: Let me ask
13 another question that relates to the racial
14 profiling issue that has arisen. One of the
15 benefits of the -- one of the mandates of racial
16 profiling which is why it is sometimes -- you
17 know, it is a bureaucratic challenge for some
18 agencies. But what we're doing is we're
19 mandating that certain data points that we
20 ordinarily wouldn't turn over to the Highway --
21 that wouldn't be accumulated by the Highway
22 Patrol, if the technical -- the bureau of
23 statistics. I'm missing the name right now, but
24 their statistical bureau that puts together the

33 (Pages 126 to 129)

www.midwestlitigation.com
MIDWEST LITIGATION SERVICES
Phone: 1.800.280.3376
Fax: 314.644.1334
statewide reports. We collect more data on racial profiling than we do on burglaries, for example.

Are there data points specific to domestic violence that would be valuable on a statewide level to collect but we are not collecting now?

MR. BRUCHSALER: I think for me it's an evidentiary issue. What are you doing as far as collecting evidence? What are you doing to make the best case possible to bring to court to get a conviction? So anything conviction related would be ideal.

ATTORNEY GENERAL KOSTER: And I'm not talking about data points that -- in terms of making a specific case, but in terms of looking at the issue and understanding the issue as a statewide phenomena.

Are there data points, Catherine, in your mind that -- looking at it from a statewide perspective that should be considered by the Highway Patrol?

MS. VANNIER: Absolutely. I think that right now it's -- from my understanding of how the data is collected, that there's a lot of subjectivity to the way the data is collected. So that the answer when you look at any given case is it depends on whether that's going to be reported. I think that we need to broaden our definition of how we track homicides; domestic violence related homicides. Absolutely.

I think it's significant that even in our court system right now we don't have a way to track the number of criminal cases filed every year that are domestic violence related. We have in our prosecutor case management system a way to mark our cases as domestic violence related, but we don't have that in our court system right now.

So quite literally I’ve worked with OSCA's technical people in the past to look at the number of domestic assault third charges filed each year, but that doesn't give us an indication of the number of cases filed. I think that if we could have more -- less subjectivity in the reporting and more objectivity, more clear standards, concise definitions on what counts as defense domestic violence, that is, again, well-trained on, that we could do a great job. Absolutely.
1. echo the importance of training from the perspective of the courts as well. That's a critical piece that we are going to continue to have to engage in different ways and try to find creative ways to train, new ways to train, and train in an ongoing fashion as Colleen was pointing out earlier.

2. I think we do a decent job at least of informing people of the requirements of their job with regard to domestic violence, but as clerks become used to dealing with their jobs on a daily basis and you see an increasing number of domestic violence filings every year, we need to help clerks understand and differentiate between types of tasks that are involved with different types of domestic violence, be it stalking or traditional, if you will, domestic violence, and how to handle those different types of cases and differentiate the ways in which they ought to be treated.

3. I think the clerks intend to speak about that directly as well. Perhaps in Kansas City. I know they had an interest in doing that, and I would encourage the panel to have an opportunity to speak directly with a member of that association at the next meeting. I think that's happening. I think they would do probably a better job explaining that then I would.

4. I will talk somewhat about the responsibilities of court clerks but also about just the responsibilities of the administration in general and perhaps provide some data that has been talked about in the morning session and clarify some of those points.

5. In calendar years 2007 to 2010 I can tell you that we are seeing definitely a notable increase in violence. And that's going on nationwide. And I think it is probably somewhat related, if you look at data in past recessions and increases in filings in those periods of time, to the recession.

6. We noticed that in FY 2007 we had 38,897 adult protection ex parte orders filed. That would be ex parte in full. Well, those ex parte would then be recognized as full at the end. So that's total filings just for clarification. Then by FY 2010, which is the year that just completed in July, we had 43,921 adult protection orders. So you'll see that's somewhere like 11 or 12-percent increase.

7. Child orders of protection went from 8,171 to 9,913. So that's about a 20-percent increase.

8. We do not see the same increase on the criminal side in terms of the violations of orders of protection charges. We had 2,433 in fiscal 2007, and in fiscal 2009 we have 2,079. But those are statistics strictly related to those felonies and misdemeanors associated with violations of orders of protection. So there's a whole series of cases that's not included there when you're talking about domestic assault and what have you. So there is some need, I think, for clarification when clerks are entering data. And that's maybe something that could be addressed via statute or -- somewhat through training but I think also through statute.

9. In terms of federal reporting to NICS, the federal government would like you to report any instance where there is a domestic piece or involvement, but if there's not a necessity in the case as charged by the prosecutor to prove up a domestic relationship of any kind, that may not appear on the record. So there's a data gap there between what actually happened and what's on the record as having happened in terms of NICS reporting. And I think somewhere in this process we would need to address that issue in some form. I don't have an answer for you, but I do have a question there that needs to be addressed at some point.

10. I also just want to thank you generally for convening this. This is a critical issue, something that I've been educated a lot through -- by Ms. Coble herself and just through my experiences in dealing with omnibus bills with her over the years which is always fun, particularly the second week in May. But it is also something that's being recognized by the National Center for State Courts. They are convening a domestic violence summit in December with all the court administrators throughout the country from a grant from the Department of Justice where they're asking to assemble teams of court administrators, Department of Public Safety representatives as a lead funding agency, and also judges that are on the ground. And I know Judge Burton spoke to you in St. Louis. He'll be attending that conference with...
me along with Andrea Spillars from Department of Public Safety and Mark Peoples who is the fund -- the grant administrator for the Department of Public Safety. And so I look forward to the opportunity to work with them on how we can maximize our efforts in increasing funding for domestic violence in Missouri and some best practices on how we use that money. You may be aware that the STOP grants that Colleen referred to do have a 5-percent set-aside for court projects related to STOP grant activities. That would be something we could use for training. In the past we haven't always received that, but I think Public Safety is willing to work with us to do that, but we just kind of need a comprehensive plan. I think it's important that we -- and Colleen has described for you that she's achieved these funding sources kind of like you would -- like a stream of water would achieve; if there's an obstacle, you go this direction and then you come back, whichever way gets you down the stream, which is what she's had to do over the years as an advocate. I think having an opportunity like this to convene groups can give us a more comprehensive look at how to fund so that we're not crossing paths and maximizing our funds as greatly as we possibly can. So I would encourage you to look at that as well; to continue the efforts of this in an ongoing fashion.

One of the funding sources that we have is Domestic Relations Resolution Fund which is a $1 surcharge in certain counties on domestic violence -- on cases that is then funneled to domestic casework. And one of the things that we're looking at -- we've done training, but in the courts we haven't necessarily sustained that training or memorialized that training. So we are creating a bench book for domestic violence that is going to be published hopefully sometime early next year. Hopefully by having that bench book and continually updating that that will be an on-line resource that every clerk in the State could have at their fingertips, that every judge in the State could have at their fingertips. Clerks have procedures in their handbooks but sometimes judges don't have the things that relate to the judicial process that are going to be relevant for them to use. So that's one of our efforts currently right now. Why is training so important? Well, I think Ms. Vannier was talking about that; you want to keep everything as evidence based as possible. And how to deal with those dual filing cases particularly is an issue the clerks would speak to you about, and I expect will talk to you more about in Kansas City. That refers to the cases of the races to the courthouse and how do judges handle that issue. What processes and procedures are in place for judges to identify true victims and be able to identify that and manage their cases properly and just encourage parties to do that the right way.

ATTORNEY GENERAL KOSTER: That is where two parties are asking for --

MR. LINHARES: Yes. You'll see that in the civil marina much more. And you notice by my statistics we're talking about the increased violence in the civil area; ex parte orders. The person who got there first may not necessarily be the victim, and so that's an ongoing issue that clerks continually deal with. And sometimes that's referred to as frivolous filings but also it does take -- statistics have shown, the things that I've read, and Colleen can correct me if I'm wrong, it takes on average about eight ex parte filings before you get a full order even in cases where abuse is substantiated. So even if there's a case of substantiated abuse it may take eight times for that substantiated abuse, the party that really was a victim, to actually get a full order, to be willing to go through that process. So clerks have to be continually trained and reminded of that because they're going to see this same person filing six, seven, eight times in a row. They may not believe that when they've seen them six, seven or eight times. Oh, that person is filing again. But there actually is a victim there. So I would just ask for you to continue to include clerks in that process and giving them greater tools to differentiate between those types of cases; between the stalking and the true domestic violence. Again, I don't have an answer but I know there's a question there. It's certainly one that the clerks have brought to me very
vociferously, and I wanted you to be aware of it as well.

ATTORNEY GENERAL KOSTER: I don't understand. I -- if there's training to differentiate that is given to the clerks, the clerk's position is not decision making. I mean, they've got to move in one direction and that's to keep the --

MR. LINHARES: That's right.

ATTORNEY GENERAL KOSTER: -- filings moving to the judge as quickly as possible.

MR. LINHARES: I suppose it's probably training that would be more for the judges. You're correct. Yeah. You're definitely right about that.

MS. COBLE: With the distinction being that the stalking component of the order isn't necessarily dependent upon family or household relationship. So very often the clerks are faced with situations outside the realm of the training for the standard order of protection.

MR. LINHARES: That's probably more of a law enforcement or judge training. Law enforcement are often tasked with the responsibility of assisting people on which way to file; stalking or domestic violence, and the judge is going to have to be dealing with that.

So clerks are in the middle on that.

ATTORNEY GENERAL KOSTER: Colleen, if an abuser and a victim both go and seek orders of protection against one another, let's say the abuser gets there first. Aside from the just, you know, inherent unfairness of that, are there legal problems that that creates after the orders are signed?

MS. COBLE: It can be difficult for law enforcement to know how to enforce the orders, and if judges' dockets don't allow them to bring those cases up together it again becomes a timing issue; who got the order first. It's a process problem when you've got the two of them going on. What if his was signed and then the judge went into trial and isn't going to be available to sign the ex parte of the second petition? Then you've got -- there's a distinct advantage in time, and one person has already been told to leave the home.

MR. LINHARES: Yes. It creates advantages for future --

ATTORNEY GENERAL KOSTER: So it depends on who would leave the home?

MS. COBLE: It could be very complex, very quickly.

ATTORNEY GENERAL KOSTER: Okay. I didn't -- it didn't dawn on me that there -- it depended -- it indicates who has to get to pack their bags.

MR. LINHARES: Sure. And it may help with separation action in a different case. So there's lots of implications.

Again, those are tough issues. I don't know that I've got answers, but I know that that -- with the increased violence we're seeing and less clerks to work on those filings that there is a pressure point there that's occurring.

That's definitely true.

I would also want to speak a little bit about the importance of data, and now we have a statewide case management system which has been on-line in every county in the State since 2008.

It's called GIS, but most of the public would know it as CaseNet because that's the public interface that people see the data through. But we've just now completed an interface from GIS to MULES where both full and ex parte orders are transmitted to MULES. And so continuing to update that as MULES would update their system or as we would update our system where we would want to work with, for example, the prosecutors in their interfaces to continue to focus on that. Data interfaces are not direct services and they don't -- they're not -- in many ways they don't feel as important as the work that your caseworkers are doing because you're not dealing with a victim directly, but without that information nobody can apply for the grants and get the money to do the things they need to do. So there is a need there for that, and my office is certainly involved in making sure that those efforts go forward.

Another issue I want to bring up that I'm not sure -- it may have been brought up in St. Louis, but I don't know if I've heard it today. It's the whole issue of the Lautenberg Amendment and the differentiation between Missouri statutes vis-a-vis Lautenberg and most states. I think Missouri -- and Colleen will know this off the top of her head. How many states are left?

MS. COBLE: Missouri, South Carolina
and Georgia were -- the domestic violence gun law, federal.

MR. LINHARES: There's a federal domestic violence gun law that prohibits -- I checked into this this morning -- purchase or transfer, which is the only things that the federal government can involve itself in. They can't necessarily deal with possession directly. That's a state law enforcement issue. But purchase or transfer of a weapon to anyone who has been convicted of a misdemeanor crime of domestic violence is prohibited under federal law but is allowed under Missouri state law.

There's three states that still have that on the books, and Missouri is one of them. Obviously, that's a hot political issue, and that's probably why it hasn't happened in Missouri. But the implication, as far as the efforts that we're talking about and data sharing and all these kinds of things, and grants, is that if the Feds were to come in through the Department of Justice and investigate Missouri's compliance with the Lautenberg Amendment, there could be a potentiality that federal funds would be at risk. And that would be the tipping point where Missouri would have to as a state address whether or not they -- and I don't know how you would handle this, again, but as an administrator these are issues that I see.

Dealing with the issue of preserving the funding for these areas or dealing with the issue of restricting gun rights as it may be perceived by many which is why it hasn't been done at this point. So that's a pressure point that's out there and something that I would encourage this group to address as well. And that interacts through MULES and through our system to the NICS database and all that. It goes along with that. I would agree with a lot of what Dan Knight was saying this morning about any efforts we can engage in to provide less burden on the victim, more support in courthouses for assisting victims with knowing how to file. And that's done a lot I know at the shelter level, but some people who wouldn't go to a shelter may go straight to the courthouse. And clerks -- this is another challenge for clerks because they don't -- they're not attorneys, and they're told not to tell people how to file. And that's -- that's -- they're doing their job, but it's not good -- necessarily doesn't seem like good customer service for public service, but then again, they're attorneys and that's the attorney's job to assist people with how to file.

The clerk is not in the position of an advocate. They're in the position of administering the case. So a lot of times people will come to court in that position, and obviously that's got to be a challenge for the victim. You know, the victim is there and they're scared. They don't know what to do. Then they get there and the clerk can't help them. So there's a justice gap issue there at the courthouse as well. Some counties have resources to address that. I know that St. Louis County has an ombudsman-type position, and Boone County may have something similar. I don't know. But there are very few counties that have the capability to address that issue effectively. That's another thing that I've noticed since doing this.

ATTORNEY GENERAL KOSTER: Greg, I'm not as familiar as I should be on the clerk issue with regard to providing assistance to those who want to file.

MR. LINHARES: Yes.

ATTORNEY GENERAL KOSTER: Will you flush that out? Is that -- that's not a statute, is it? I mean, is that an internal policy, and how aggressively is that policy pursued? Is it local policy or is it state policy?

MR. LINHARES: It's more of an issue that has been raised in the past by attorneys. Maybe if you're an attorney for a respondent you may raise the issue that that clerk assisted the victim with the filing and that may cause the case to be compromised.

ATTORNEY GENERAL KOSTER: So is the recommend -- is it a recommendation from state court administrators to the clerks or how is that policy put out?

MR. LINHARES: How has that been put out?

ATTORNEY GENERAL KOSTER: Is it policy and how is it transmitted, if it is?

MR. LINHARES: As with many things it
--- all law is local in a lot of ways. I wouldn't know that even if there was an OSCA policy on it that that would be the gospel. I think really this is an issue that is driven by presiding judges throughout the State and driven by a local practice. But traditionally the clerks being clerks and the judges being attorneys, the clerk will defer if there's an issue of how far they can go in assisting a client. They will bring that to a judge and say this person wants me to tell them should I file this as a stalking or should I file this as a --

ATTORNEY GENERAL KOSTER: Oh. I see. So it's more then a matter of how to fill out a --

MR. LINHARES: Oh, yeah. They want you -- they will -- I mean, somebody that comes in, they'll try to get as much help as they can as you would expect. And so --

ATTORNEY GENERAL KOSTER: It's when you get to a legal distinction.

MR. LINHARES: When you get to a legal distinction they view that as unauthorized practice of law, or it could be perceived that way and are often reticent to address that.

MS. COBLE: And then if I could, in the training with clerks it's -- we recommend that they realize that we're not asking them from the advocacy community to be advocates, but given the fact that half of Missouri counties don't have a program within their borders, there are clerks in these jurisdictions who aren't going to be able to follow the best practice of picking up the phone and having the advocate come to the courthouse to help.

MR. LINHARES: That's the best way to handle it.

MR. COBLE: That is the most effective way to do it, but in so many places the clerks are the -- they're the frontline staff.

MR. LINHARES: They really are.

They're our frontline. There's no doubt.

MR. LAMB: Greg, certainly circuit clerks are elected officials.

MR. LINHARES: Yes.

MR. LAMB: Is there any type of mandatory domestic violence related training for circuit clerks as has been discussed on POST certification?

MR. LINHARES: There's no mandatory domestic violence training, per se. There -- there pretty much is in practice, though.

MR. LAMB: OSCA provides it. I understand that.

MR. LINHARES: We do that. And we continue to look for ways to make that lively. And Colleen has been a trainer for us many times.

MS. COBLE: It started in 1990 with the first official start of what they continue to incorporate as their yearly ongoing --

MR. LAMB: Head of the judicial college.

MR. LINHARES: This would be clerk college. Well, judicial college in the family law section. Family law judges will stay an extra day at judicial college. There's a specific section that I give to family law that day. And a lot of this is -- that type of training is done there. There's also something done at your initial judicial training when you come as a new judge. New judge orientation will have a piece in there about this, because typically new judges are going to get this line of work as you can imagine.

I've experienced that when I was in the military as well. I was a legal assistance attorney, and the new guy always got legal assistance. The cool guys got to go to criminal law. No offense Attorney General. But they want the cool guys -- everybody wants to do the criminal stuff. And attorneys love it, you know, but so -- and I understand, but this stuff is done typically by your newer associate circuit judge. So there's even a more enhanced need for training.

REPRESENTATIVE STILL: I have a question.

ATTORNEY GENERAL KOSTER: Go ahead.

We're pretty -- we're not running like a committee hearing so you don't have to -- you just jump in.

REPRESENTATIVE STILL: You don't have to ask permission?

ATTORNEY GENERAL KOSTER: Exactly.

REPRESENTATIVE STILL: And it's a good thing because they'd never give me permission.

Did I understand you to say that there are certain federal recording requirements related to domestic violence?
MR. LINHARES: Yes.

REPRESENTATIVE STILL: That we don't do? Or that we do federally but not for state?

MR. LINHARES: The State statute doesn't authorize your weapons to be taken in those circumstances in Missouri. Misdemeanor crime of domestic violence will not authorize you -- doesn't -- Missouri law does not authorize that weapon to be taken in that circumstance whereas at the federal level it does.

REPRESENTATIVE STILL: Now, is that what you were talking about or is there something different called the Lautenberg Amendment?

MR. LINHARES: That is the Lautenberg Amendment. The Lautenberg Amendment is that misdemeanor crimes of domestic violence will disqualify you from purchase or transfer of a weapon.

REPRESENTATIVE STILL: Okay. And it would require a change of statute in Missouri?

MR. LINHARES: Yes. In Missouri.

REPRESENTATIVE STILL: That ain't going to happen.

MR. LINHARES: No. That's why I said it wouldn't happen until the Feds investigate us and then people have to decide do we want to do the bill or the money.

REPRESENTATIVE STILL: I hope you're right. I mean, I certainly would be supportive of that.

MR. LINHARES: I think it would only happen if people were able to say my hands are tied. They're coming for us, and we're going to lose a bunch of money if we don't do it.

REPRESENTATIVE STILL: How much money would be at risk?


MS. COBLE: Department of Justice dollars.

MR. LINHARES: Department of Justice dollars. Basically, anything that comes into Public Safety from the Feds, anything that comes to the courts from the Feds, anything that comes to Mr. Lamb from the Feds, or the Attorney General's office, all of those funds would be at risk.
Otherwise, you know, when you've got that respondent and you can't serve that respondent, that becomes an issue. And so we need to make sure we have the right address for those respondents when cases are coming to the courts because that's a frustration for the clerks. It keeps filing -- keeps coming back and the clerk keeps having to deal with it. That's an issue.

I discussed the issue -- most of the other issues I think I've already talked about. The other issue that I would bring up is privacy; the ongoing needs for privacy. Last year we passed a piece of legislation to keep some more of the personal information in the confidential case sheet and not in the public record regarding personal information; bank information, Social Security numbers and information in that form.

I don't know if there's any other places like that we haven't found yet, but if there are we need to continue to keep the focus on privacy, particularly in regard to the victim and where the victim is, and continue to train and make sure that our laws are in place that keep the identification of the victim and where that victim is located secret if it needs to be. And also we want to encourage to continue not just funding court efforts but, you know, probation officers, increase probation officer funding for keeping track of domestic violence offenders. That's critical. All of those things will help judges and clerks do their job too. So it's a comprehensive effort.

I'd be happy to answer any other questions you have.

ATTORNEY GENERAL KOSTER: Very good.

We're right on time. We've been asking questions as we've been going along. Does anybody have anything final?

MS. COBLE: Just to -- I know that there have been some changes that the court administrators around the country are having to report differently to NICS, the different federal systems. Aren't there some new requirements of state court administrators?

MR. LINHARES: Yes. In terms of the -- yes. Now, this is regarding the piece of legislation that we tried to pass two years ago. That has to do -- and I'm trying to -- I'm quickly trying to search my memory to remember what it is. It had -- it's a very backwards seeming kind of thing. I'm trying to remember it. I'm sure as soon as I sit down I'll remember exactly what it is. But in order to qualify for federal funding for data sharing to NICS, I think it has to do with some kind of adjudication of incapacity. And I'm thinking about it, and I think I've got it now.

If a person is judged incapacitated and their weapons are removed from them due to that adjudication, being incapacitated, there has to be a process whereby someone can restore their rights; restoration of rights piece. And I think that was passed at the federal level. Joan and I drafted this up in the mezzanine of the Senate, the floor of the -- we won't talk about that, though. No.

But we've -- this was a piece that I -- well, Mr. Bellamy from the Attorney General's office was involved. I'm being a little -- it wasn't quite that bad. It's been -- we've talked with the NRA about this, with members of the Attorney General's office, clerks have been involved. Basically -- and NICS has kind of put out some greater guidance on this in the last year or two. They want you to have a process to restore rights to persons that were previously judged mentally incompetent; to appeal to the Court to restore their rights to possess firearms. And if you don't have that in place then you may be subject to losing additional federal funding or not being able to draw down federal funding to increase your capacity to report data to the NICS system. That's it in a nutshell.

MS. COBLE: Well, and there was some concern that they were going to broaden some of those to address the domestic violence guns issue was the thread I was going down.

MR. LINHARES: Yes. There was -- people want to say well, then let's get rid of -- you know, it's not let -- what do you want to do with felonies now or -- there was some concern that that could be a vehicle through which other things might be driven, yes. And it seems counterintuitive but there already is in place a way to take away those weapons through that judgement of incapacity. So I think this was passed at the behest of some gun rights
advocates at the federal level and put in well, we want that restoration of rights in order to get this -- all this information on people that own guns.

ATTORNEY GENERAL KOSTER: Greg, thank you very much. I appreciate the work you're doing and your testimony here today. It's very helpful.

Judge Debbie Daniels former alumni of the Attorney General's office is next up. Come on up, Judge.

Judge Daniels is Associate Circuit Judge here in Boone County and handles the domestic violence docket here in the County.

JUDGE DANIELS: On the criminal side.

ATTORNEY GENERAL KOSTER: On the criminal side, and is here to give us a judicial perspective on criminal domestic violence cases. Welcome. It's good to see you.

TESTIMONY

BY JUDGE DANIELS:

Thank you. And it may be the first time this year that I was identified as being one of the cool people. So I'm glad that I'm here on the criminal side.

Recognizing that we do not have yet an integrated court with regard to the civil side on orders of protection, and the criminal side with regard to someone who is facing criminal penalties for domestic violence. I am here to speak to you about the criminal docket and some of the things that we have done in Boone County without the advantage of legislation or a lot of money to the court system to help address what we perceive to be a very important issue for public safety in Boone County.

I was very pleased to have the opportunity to speak to you all today. I am sorry that my docket in probate took -- it was already set and so there were just too many cases to move, but I'm hoping that someone will share with me the great ideas that have come out of this process. So thank you for having it.

When I became an associate circuit judge one of the things that occurred to me was that we had many resources trying to reach the problem of domestic violence in Boone County, and while our numbers are not great I will tell you the prosecutor's office informs the court system that there are 1300 cases a year, roughly 1300 cases a year, that either are filed as domestic violence cases in the criminal side or have a component of domestic violence associated with it. So you would see cases that are filed as a burglary to really grow out of a domestic violence situation.

And we are very blessed in Boone County that we have what is called a DOVE unit, and I understand that Dan Knight may have spoken to you about the DOVE unit. We are blessed with people who are actively pursuing in a not-for-profit capability, trying to address domestic violence. But it was hard to get those people together.

Boone County is a First Class County. We have on any given day perhaps five or six courtrooms going where if you are a victim of domestic violence or a prosecutor or a defense attorney assigned to a domestic violence case that you need to be and you need to resolve that.

What we did in 2008 in Boone County is all of those cases come to one judge. We have worked with the prosecutor's office to get the assistant prosecuting attorney handling the case to be in the courtroom at the same time. We have worked with the public defender's office to get the attorney assigned the case in the courtroom at the same time which gives us incredible ability to create what is a very busy circuit. Some of the small town aspects that are positive towards addressing public safety concerns.

The victim doesn't come in on a law day in Boone County confronted with trying to see where their case is in 11 different divisions. The victim advocates aren't running between many courtrooms trying to decide what's going on, and more importantly there are limited resources on both the criminal defense side and on the State side. And what I find over and over again sitting on the bench is I will say -- someone will come up and they'll say, Judge, we need to continue this case for negotiation, and I will say how long do you need. And the answer I get back is we've been trying to talk to each other but we can't reach each other. Well, if you can get the attorneys there in the course of a docket where you have about 60 cases set, they have time to talk. They can get cases resolved.
And so without ever wanting to represent to this panel that someone gave me a magic wand when I got the privilege of wearing a black robe, because I didn't get one of those, what I can say to you is efficiency and moving the docket makes a big difference. It makes a big difference for the victim. It makes a big difference for the public safety concerns of what's being addressed.

If cases are not moved I do not believe we do the service that we should be doing to the community in which we live. So while typically the judge is always the umpire and not a player, I am here to say to you that one of the things I would encourage is a concerted effort to move domestic violence cases quicker. We do that in Boone County by having a return date on bonds that is much quicker than a normal return date on a bond.

If you get charged with stealing, get taken into custody, and we have pre-set bonds in Boone County, and you post a surety bond to allow yourself to exit from the Boone County jail, your return date into court on that surety bond is probably going to be three weeks to four weeks before you ever see the judge. For domestic violence cases that return date is 10 days. It makes a huge difference. So everyone is seeing the judge quicker.

If they do not bond out, they come to my docket, and I have a criminal docket every day except Thursday, and usually I'm in court on something criminal on Thursdays too. They come to my court and I get the process moving.

ATTORNEY GENERAL KOSTER: So the domestic violence docket can crop up on any of the four law days that you operate?

JUDGE DANIELS: Yes. Mornings or afternoon.

ATTORNEY GENERAL KOSTER: So there's not a set domestic violence docket that starts Monday morning at 9 a.m.?

JUDGE DANIELS: There is. There is a set domestic violence docket that in addition to that if you are charged with a new domestic violence offense, you're supposed to be coming in to see me as quickly as possible if you're in custody. Within 10 days if you're posting a bond at the sheriff's office.

ATTORNEY GENERAL KOSTER: So all the return dates are for that single domestic violence -- the formal domestic violence calendar, right?

JUDGE DANIELS: Right. Well, or any criminal docket that -- the return date being the first appearance. The defendant's first appearance is before me on one of those criminal dockets that I'm running Monday through Friday.

ATTORNEY GENERAL KOSTER: Okay.

JUDGE DANIELS: Once they appear before me on the first time then I set that case on a Tuesday or a Wednesday where I have court people in the courtroom to help.

ATTORNEY GENERAL KOSTER: I see.

JUDGE DANIELS: And I think the -- I think the expedited return date is an important component to being fair and doing the job that I'm charged with doing. If it is a domestic violence case that the State is going to be able to go forward with, that needs to happen sooner rather than later. If it is a case that the State is not going to make, that decision needs to be made sooner rather than later because of the ramifications to the people who are confronted with bond conditions.

In Boone County we have as part of the process of setting bond that if you are charged -- if you arrested on domestic assault there is a no-contact provision with the person identified as the victim in the arrest statements. That gets reinforced when that person comes into court. So I think that's a very positive thing that occurs.

The remedy in the system today -- understanding that there is a legislative push to do something about it. The remedy today is for the State to request that the bond be held insecure under Rule 33.

ATTORNEY GENERAL KOSTER: Can I raise a couple of points that came up during the morning hours that have kind of intertwined with a couple of things you just said? The first is the question as to whether or not, I assume, a misdemeanor penalty, a formal misdemeanor, would apply to a violation of the no-contact provision in a domestic violence bond.

JUDGE DANIELS: A new charge?

ATTORNEY GENERAL KOSTER: A new charge rather than having the only enforcement tool be judicial contempt, that actually a misdemeanor
applying under the -- and the thinking is that if
there's a no-contact provision in the bond and a
deputy sheriff knows that violation of that
no-contact position -- of that no-contact
provision is itself a separate crime, that a
deputy sheriff will be more likely to go enforce
that as a state violation rather than as a
potential contempt situation.

JUDGE DANIELS: I would say to you that
we are not seeing criminal contempt yet. What I
see frequently is that I set a bond on a
criminal charge involving domestic violence
situations and include in the setting of that
bond a no-contact provision. I believe under
Rule 33 of the Missouri Rules of Court I have
discretion with regard to what bond and what
bond conditions I establish with regard to
releasing someone from jail. If someone is in
violation of what I have set as the bond
condition, I do not believe that I need to
arraign them. I do not believe I need to
establish even an opportunity for them to be
heard if I think there is a sufficient risk
associated with violation of a condition of bond
that I have set.

Under Rule 33 then what I do if the
State makes me aware, I'm not suggesting that I
ask -- act as law enforcement. But if the
prosecuting attorney's office makes me aware
that there has been a violation of a condition
of bond that I have set, I set that immediately
for hearing. Or if the person is in my
courtroom and I believe that there's been a
violation, I will hold the original bond
insecure and move to enforce that. Which if
there is no bond established and a warrant has
been issued, that person is taken into custody.

ATTORNEY GENERAL KOSTER: Say that last
part again. If there is --

JUDGE DANIELS: If there is no bond
that has been filed to allow the person to be
released on the warrant then that person can be
immediately taken into custody. If the person
is charged with the new offense, I would think
that would have to be a bondable case.

MR. LAMB: Judge, what would prohibit
both from occurring simultaneously, though? You
would still have the --

JUDGE DANIELS: There wouldn't be
anything that would -- I'm sorry. I didn't mean
to cut you off.

MR. LAMB: Oh, no. I'm sorry. I
interrupted you. I would agree that you, sua
sponte, would have the ability to enforce your
own bond. And nothing about a proposal to
criminalize a violation of the judge's bonding
condition would take that power away, would it?

JUDGE DANIELS: No. And I just -- in
whatever legislation, which I would not be
qualified to speak to that would come through
the different branches of government, I wouldn't
want it to get lost in that discussion. The
authority that is vested in the Court and the
ability of the Court to address immediately
safety concerns based upon a bond that, of
course, was set.

ATTORNEY GENERAL KOSTER: And some of
this may differ between the cultures of
different circuits. I guess anecdotally you
feel that your no-contact provisions in your
bonds are being enforced in this circuit?

Coming out of the 17th I don't know whether law
enforcement thinks about enforcing the provision
in a bond with the same intensity that they, you
know, pick up on state law violations.
ask the person to take a seat based upon what
the circumstances are and hook them up to
electronic monitoring so I know if they're
getting close to a zone from which they're
prohibited, hook them up to electronic
monitoring to continuously evaluate alcohol
levels or hold the bond insecure, require them
to go back to the Boone County Jail and post a
new bond.
ATTORNEY GENERAL KOSTER: Second topic.
What is your sense -- what is your thought on
pros or cons of a 12-hour hold on a domestic
violence arrest? And again, I've always been a
little dubious about the constitutionality of
these. Some of them are informal around the
State.
JUDGE DANIELS: I would say that the
Attorney General's Office has great resources
with regard to the unit that was charged with
defending writs of habeas corpus, and perhaps
that unit that addresses responses to filings of
writs of habeas corpus would be involved there.
ATTORNEY GENERAL KOSTER: Thank you.
Well and subtly stated. I'm sure the redness of
my face betrays how severely I was just slapped.
JUDGE DANIELS: No. No.
MS. COBLE: In a non-violent, loving
sort of way.
JUDGE DANIELS: That's not to say that
if a judge is truly looking at Rule 33 with
regard to potential danger to the identified
victim, the community, that you cannot as the
Court in your judicial capacity address what
would be a problem. And understanding that I'm
supposed to be here to discuss criminal
responses I would say to you that I routinely
get calls in the middle of the night to issue an
ex parte order of protection, and when I say
where is the person, they say in the Boone
County Jail. The person I believe who needs to
be calling me is the prosecutor's office to say,
Judge, this is an extenuating circumstance under
Rule 33 which is the rule of the Missouri
Supreme Court that gives me the authority to set
a bond. We believe this typical offense that
has been charged as a misdemeanor or a typical
offense where someone has been arrested on a
misdemeanor needs to carry a much higher bond.
ATTORNEY GENERAL KOSTER: And then the
third question --
JUDGE DANIELS: I'm a big believer in following rules, and so whether it's by statute or whether it's by rule, I think that the experience in Boone County could be incorporated in other counties and lead to very positive results in other counties. Because it's not a plan that requires people to administer it so much as rethinking the system to allow the people who are already players in the system to get together and talk to get resolution.

I was visiting with Page Bellamy because he had made an effort to try to get a domestic violence docket court where he was, and I said to him, sometimes I've very envious of the drug court statutes because it recognizes the problem of drug courts, and it statutorily says this is a good way to address this. And so to the extent that you have a statutory recognition of the importance of an efficient and consolidated effort to address domestic violence and you create in the court system, incorporated with the Supreme Court rule, an ability of why this is a very important thing, I think it gives those of us who are out here in the system trying to work through that some parameters that would be very helpful.

ATTORNEY GENERAL KOSTER: What do you think is the mechanism for -- in a circuit that doesn't prioritize domestic violence the same way that this circuit does, an arraignment -- a post bond arraignment for someone who has bonded out would normally be something along the lines of 30 days?

JUDGE DANIELS: I think sometimes it's much longer.

ATTORNEY GENERAL KOSTER: And how -- because I have never been a judge I don't know how idealistically I should take that last statement. Is that -- are you putting that forward as something that the Supreme Court would seriously consider and that that is a practical possibility or is that farther out along the idealistic continuum?

JUDGE DANIELS: I'm saying if the Missouri Supreme Court, understanding that we have a public defender crises, we have a crises perhaps for the prosecuting attorneys with the number of people that they have available. The courts think they have a crises with the number of cases that they're moving. I'm just saying that Boone County is not St. Louis County or Independence or Jackson County, but we move a fair number of cases in Boone County. And I believe that you could ideally set three to four months as a very realistic goal as the suggestion by the Missouri Supreme Court to have cases disposed.

ATTORNEY GENERAL KOSTER: Greg, how if that type of recommendation made it into the report how would OSCA take something like that? MR. LINHARES: OSCA would refer that to the appropriate supreme court committee to study that and whether or not that would be recommended up to the Supreme Court. The Supreme Court may want to give that a look to
the Civil Rules Committee -- or I'm sorry,
Criminal Rules Committee, and the Family Law
Committee maybe have some comments.
So it would probably be incumbent on --
and Judge Daniels, I think, is on a committee
with regards to that so she could make this
happen more than me. So again, it's not OSCA's
-- we would staff that but it would probably be
a recommendation of the Criminal Rules Committee
as to whether or not that would be something
they would want to recommend at the Supreme
Court and take it from there.
ATTORNEY GENERAL KOSTER: We'll go back
on track. We've digressed with all these
questions, but continue on.
JUDGE DANIELS: I think that's an
important component of -- I think if the entire
system works together we get more fair
resolution of the charge that all of us have to
to operate the system to deliver justice both to
the victims and to the people who are involved
in it. And I think there are many tools that
are out there that if you pay attention to, you
can get some very -- no magic wand but some
exciting things happen to make a big difference.
ATTORNEY GENERAL KOSTER: Did you have
a question, Mary?
REPRESENTATIVE STILL: No.
ATTORNEY GENERAL KOSTER: Do you have
other circuits around the State that you would
sort of direct our attention to, other circuits
aside from this one that you really feel are
moving well?
JUDGE DANIELS: All of the circuits are
moving well. If we're being recorded I am here
to tell you that all Missouri circuits are in
great shape.
I think St. Louis County has tried to
get a unified docket with regard to what is
going on on the civil side with orders of
protection, and Judge Burton and I have been in
communication about how we can, as part of the
educational process in the college, put in
something that shares what our experience has
been to date.
I think in Buchanan County they're
trying to move forward with some sort of docket
or court with regard to what the prosecutor's
office is doing up there with regards to what is
going on.
ATTORNEY GENERAL KOSTER: Does the term
unified docket mean the civil side plus the
criminal side in front of the same judge? What
does -- when you use the term unified docket,
what do you mean?
JUDGE DANIELS: So far from my
perspective the only place that unified has
meaning right now is there are courts who are
doing unified docket, meaning one judge, one set
of rules for the civil side. And if it's not
one judge there is a concerted judicial approach
to help those cases get resolved. So you have
that on the civil side and you have that on the
criminal side. There's some thought that we
should try to blend that concept of a unified
approach by however many judges you need to
handle the volume of cases and combine civil
with criminal. I'm not so sure about that
because the rules are so different, but we could
certainly increase communication between what
we're doing on the civil side and what we're
going on the criminal side.
My example about them calling from the
jail to have me set an emergency ex parte,
that's fine. It should be one of the tools in
the toolbox, but some of them were calling me
about adjusting the bond -- pre-set bond on a
misdemeanor in Boone County is $1,000. Unless
the judge moves then to increase that bond with
the information provided by the prosecutor, it's
going to cost $100 to get out of jail.
ATTORNEY GENERAL KOSTER: You don't
have the civil side docket?
JUDGE DANIELS: No. I have just the
criminal side.
ATTORNEY GENERAL KOSTER: What are the
benefits -- or why haven't you gone to that kind
of a setup in your court? Why -- are you -- is
it a decision that has been made not to bring
the two dockets together or is it just something
that --what are your thoughts on it?
JUDGE DANIELS: I think change is
always hard. I think we're still working
through the change of trying to get the criminal
docket in a unified format. I will tell you
that without appropriate communication criminal
defense attorneys may not be real enthusiastic
about this. Before I ever did this in Boone
County I talked to the criminal defense
attorneys. I talked to the public defenders. I
talked to Ms. Coble. I talked to the
prosecuting attorney's office. I talked to
probation and parole. I talked to the family
counseling center who is the center here in
Boone County who is responsible for trying to
look at providing batterer's intervention or
cognitive behavior therapy.

I had to get approval from the court en banc because I set many, many -- in my division
where the probation officer is not recommending
that the probation be revoked. I'm simply
asking him to come in and visit with me which
increases Ms. Blakemore's job considerably, but
I think it's an important component from where I
read the literature.

I think the social science literature
on this is pretty clear that if you select
appropriately those people for cognitive
behavior therapy and close monitoring your
chances of reducing recidivism are the greatest.
ATTORNEY GENERAL KOSTER: I'm still at
a loss. I don't understand the systematic
benefits to having the civil decisions made by
one judge and the criminal decisions made by
another judge particularly in a larger circuit

like Jackson where the --
JUDGE DANIELS: It's the numbers. It's
the numbers of cases that you would have to have
one judge process.
ATTORNEY GENERAL KOSTER: Isn't it the
same number of judges? You just split the
distribution? I mean, if there are 100 cases --
let's say theoretically you've got 100 criminal
cases and 100 civil cases and you give that to
two judges, each one has still got 100. If you
split them 50/50 each judge still has 100.
You're still going to need the same number of
judges but at least there would be coordination
in how the civil matter is being decided and how
the criminal matter is being decided. I'm not
educated on this topic. I don't understand the
system benefits with the exception that a
defense attorney might think, oh, it's better if
I can, you know, play one off against another
and they don't all know what I know.

I don't understand the system benefits
of splitting the decisions with regard to a
single subject being a defendant on two sides of
the civil/criminal divide.

JUDGE DANIELS: Let me answer criminal
docket first. In Boone County we have 11 judges.
We have four associates and one commission.
Before 2008 what would happen is the domestic
violence dockets would be spread amongst those
four judges. When they all started coming to my
division, unless we were going to keep the
courthouse open until eight o'clock at night,
there had to be something that gave a little bit
in order for me to have all 1300 of those cases.
In addition to a criminal docket I do a
probate docket, and I do a probate docket for a
First Class County involving involuntary mental
health commitments, decedent's estates,
guardianships and conservators, trust
litigation, and I get to see people from the
Attorney General's Office on sexually violent
predator trials.

If I were to pick up -- and I'm not
even sure what the numbers are on orders of
protection. 4,000, 5,000? How many orders of
protection --
MS. REDDIN: It's usually 20 to 30 a
docket approximately.

JUDGE DANIELS: Okay. So if I pick up
those dockets also, assuming that I would find a
judge who would be happy to move that off of my
docket, where would I find that in my day to add
those civil side to the criminal cases? And
crime filings I'm not going to touch, but the
statistics are what we're reporting on crime or
anything else like that in Boone County. I'm
just saying we aren't seeing decreases in the
number of criminal cases that are filed in Boone
County.
MR. LAMB: You brought up an
interesting point of something that we discussed
somewhat in St. Louis; the idea of probation.
I'd be very interested in your observations on
the -- the most effective means that you would
suggest for managing -- most effective and
efficient means for managing misdemeanor or
domestic violence probation orders. Obviously,
probation and parole has had very limited
resources, and misdemeanors do not generally
tend to be at the height of where the resources
are devoted. How would you suggest the best way
to manage those cases are?

JUDGE DANIELS: I think like many
things you have -- the judge has to be cognizant
of the resources that you have available. I
think it starts by if I have a person who has a
history of domestic violence and they come in
recommending a suspended execution of sentence,
I'm going to look at supervised probation for
that person. And then I'm going to realize that
that criminal case I still have responsibility
for as a judge.

My responsibility as a judge, I
believe, translates into me following diligently
to make sure that the conditions of probation
have been complied with and that I am providing
sufficient support to probation and parole. And
to do those things it means that whether the
report comes to me as a probation violation
report with a recommendation for a continuance,
whether it comes to me as a notice of citation
or whether it comes to me as a case history
summary, if I do not believe that the person is
efficiently utilizing the tools that the system
has given that person to be successful on
probation, they come in and see me. Again, no
magic wand. But I think the show cause hearing
does quite a bit to establish that I'm paying
attention and that it's not just a
get-out-of-jail card free. It is a change in

the behavior that results in that person being
successful on probation.

MR. LAMB: Will you as a judge, sua
sponte, issue a show cause or will you on
misdemeanor --
JUDGE DANIELS: Yes.
MR. LAMB: -- wait for a motion to
revoke from the prosecutor's office?
JUDGE DANIELS: Well, if I'm going to
revoke the person's probation, I believe both
under Chapter 559 and under Constitutional Rules
of Procedural Due Process that person has to
have notice of why I would be revoking their
probation. A show cause hearing is just an
opportunity for them to come in and visit with
me. I can for sure issue that order any time I
want to, and the way my orders read is Court
reviews, whatever it is from probation and
parole, or we have adult court services that
does probation periods, and I was going to reach
that in a minute, or just this matter of
unsupervised probation. If I happen to remember
the name and know the person has been on my
docket before and they get a new file, I can ask
them to come in and visit and to share with me

any day I want to. And then I say Defendant is
ordered to appear on a warrantable issue, and if
they don't come in I'm issuing an order for
failure to obey judge's orders, not for
probation violation.

Now, Boone County is lucky. We also
have adult court services through the court
system which is judicial probation to a certain
extent where we have officers that are employed
through the court system that follow the people,
and what I have said about probation and parole
applies to that also. Not everyone necessarily
needs the services to get them to the tools
where they need to be, and for those people
unsupervised probation works also.

What we try to do in Boone County is in
addition to providing an environment where
everyone can get together and find the courtroom
that they need to be in, which is an important
thing, we try to meet three or four times a year
between probation and parole, defense attorneys,
prosecuting attorneys, the court system, the
clerk's office to discuss what our problems are
and how we can more effectively manage what's
going on.

ATTORNEY GENERAL KOSTER: Thank you.
MR. LAMB: Thank you.
JUDGE DANIELS: And going back to the
question I heard addressed about the weapons.
Understanding that there's federal law on
dangerous instruments and deadly weapons, I
certainly make it a condition of probation which
I can do right now, no deadly weapons, no
dangerous instruments during the probation
period. And then when they're -- when they say
to me I am -- I possess many firearms that I
inherited from my great-great grandmother who
was related to Daniel Boone. What would you
have me do with these weapons? I always say
probation is a privilege and if at anytime you
want to come off of probation, you can come off
of probation and we can execute the sentence. I
cannot force you to stay on probation. But if
you want to stay on probation these are the
circumstances of what you need to do.
REPRESENTATIVE STILL: It's their
choice.
JUDGE DANIELS: It is always their
choice. I cannot make anybody be successful on
probation. I can simply give them the tools and
feedback that I'm paying attention to how they're doing on probation. And that's all I can ever accomplish because those other decisions are up to them with regard to how -- what they want to do, how they want to proceed.

ATTORNEY GENERAL KOSTER: I don't mean to rush you, but we're about 10 minutes over. Were there -- are there a few other points that you would like to make or --

JUDGE DANIELS: Hopefully -- I really appreciate the opportunity to share with you all. I do think that there are some tools out there that can be utilized and that would be important. And so I never wanted to come in here with the illusion that I might have all of the answers, but I do think we can all within the parameters of where we are, without new legislation, help provide some answers towards solving the domestic violence problem. I appreciate the Attorney General's Office in bringing us all together so we can talk and go forward and do better things.

ATTORNEY GENERAL KOSTER: Well, this whole task force was -- you weren't here at the beginning of the day, but it was Colleen's idea. I think she approached both candidates in the general election, and I think both of us equally promised that we would get it done which is an indication of the bipartisan respect that everybody in Jeff City has for Colleen and the importance of the issue. Thank you again for your presentation. As always it was incredibly learned and precise, and thank you for a lifetime of service to the State in many different aspects.

JUDGE DANIELS: Thank you all. And I had a probate docket and didn't have any request to reinstate the permit to carry concealed. So we haven't had one of those in Boone County yet, although I have one maybe going to be filed.

MS. COBLE: If I could just add a public declaration of my being wrong and you being right.

JUDGE DANIELS: No. I just think -- you know, what is that old saying?

MS. COBLE: Our first meeting of talking about doing the docket, and I just didn't think it could be done as quickly, as cleanly and clearly as you have shown. What you've done is created a model for the State,
is that we do not have the resources, the manpower, that kind of community to make that work.

We also have other challenges that are practical and get in the way of that, and so we understand that. We do a lot with a little bit, and I'm really proud of the accomplishments of all the rural programs in Missouri.

We opened -- in fact, we're celebrating our 25th anniversary at Haven House. So we're one of the oldest rural programs in Missouri and I'm real proud of that. We started with 19 beds, four residents a day, you know. Then it started picking up steam in the early '90s and so we had to add on beds to get up to 27. But at that same time my board said, you know, this is not the answer to just keep adding beds for families in crisis. We need to be meeting that need sooner, and so we started doing a coordinated community response to domestic violence before that became the buzz word.

What we do is we realized that people should be allowed to stay in their homes.

Domestic violence programs everywhere, and really in rural areas, are serving extremely poor women. When I found myself in a situation where I had to make an escape, it didn't matter if I lost my furniture. It didn't matter if I lost my lease because my parents fixed that for me, and then my job allowed me to transfer with the State of Missouri. So all of those things were in place that that move was -- you know, it helped me be able to make that leap into the next part, better part of my life.

The women we serve, they come from a very different background. Their families are often dysfunctional, they've been in that cycle of poverty, they've been victims of child abuse of their own, and that's not to say that they're more likely to be battered than anybody else, but they just have fewer resources. And so we're serving those folks. And we said, they especially need to stay in their homes because if they lose their couch or they lose their lease, there's nobody to buy them a new couch and there's nobody to give them a lease next year. And if they have violence occur in their public housing apartment, they never get back in. So it's really important that we give them those tools.

So we looked at that and started a simple court advocacy project, and what we saw that -- the same judge we had then we continue to have, and he's a wonderful judge. At that time he was seeing like 20 percent of folks who were asking for orders of protection were coming to full orders -- for hearings to get their full orders. That was frustrating to the clerks. Of course, it was. It was frustrating to law enforcement. It was frustrating to him, and it was frustrating to women being victimized.

So we got an advocate in our courthouse, employed by us, not by the court, not by the prosecutor. By us as the advocate. And she -- we have had someone in place since 1995 there, and almost immediately out of the shoot we saw about 85 percent of women coming back to get full orders who asked for ex partes. So the first year we had about 200 women. Now we're up to about 600 women a year asking for -- coming to talk to the civil court advocate about what she can do to stay safe in her own home.

What the advocate works -- and this is only in Butler County because, you know, you need to have somebody there every day. Not on Tuesday one week and Thursday the next because women get battered every day. And so we have now gotten up to 87 percent pretty much every year; between 85 and 89 percent of the women who ask for ex partes come back to their full ordered hearing. They come back because from the day they go in to see the clerk upstairs who sends them downstairs or they come into her office, they are explained about the cycle of violence, the effect it has on her children, what her community resources are and what is her responsibility when she has an order of protection because they're not for everybody. You can be in more danger by having one than not having one. And we have to be honest because we believe women are their own best experts.

ATTORNEY GENERAL KOSTER: Do you see a similar increase in the participation of victims in the prosecution process?

MS. ALLEN: Okay. What happened there is that we started getting so busy that -- we started out thinking that she could serve everyone. Then we realized that -- as you listened to the judge just now it's mind boggling how complicated that is, that there was
no time and energy for one person so we started
a part-time person based in the prosecuting
attorney's office hired by us, employed by us as
an advocate. This has all been through our
coordinating community response. And that has
now turned into a full-time position there.
We've seen a great increase in the number of
cases that are able to be prosecuted. We have
-- we had 388 reported incidents of domestic
violence in Butler County. 40,000 people live
there. That's probably fairly typical. So, you
know, we're seeing in those small counties
around us more like 60 or 75. Those are
counties where an advocate could handle all of
that, but not where my civil court advocate did
six -- I think there was six applications last
Friday morning before lunch.

You know, so there's a lot of expertise
that goes into the criminal court side but the
very same results. You have someone -- she's
picking up reports at the police station, at the
sheriff's department. She's looking through
those. She's making phone calls. She's
explaining to women that this is -- you know,
this is not Movie Of The Week and this is not
Law And Order. This is going to take a long
time. And this is what you need to do. Do you
have people to help you? Do you want me to be
your support system? This is what the
prosecutor is going to need from you. So she
becomes that family that most of us have when
we're in a crisis. She becomes that person for
the folks who don't have that.

And we see the same thing in civil
court and criminal court that we see in the
shelter. People using those services tend to
not have the resources that many of us do. If
your family has resources you're not going to
end up -- as likely end up in the criminal court
system. You're going to work things out.
You're not going to -- it's not going to rise to
that. We very often have to become that support
system.

We've seen that work really well down
there with minimal amount of money, but
15 miles from us and not have a clue how to get
them somewhere, we'll be happy to pay any of
those expenses or pick them up. But, you know,
there are lots of folks we're serving that they
don't have a car. They're not even on the paved
road. You know, they're sitting in a trailer
court and everybody in every other trailer is
his aunt. They're not getting a ride to the
shelter. That's how it is.

So we have a whole set of problems of
trying to reach people and serve them. We know
that police officers are supposed to get victims
to a safe place, but we also know when there's
one road deputy he or she doesn't really have
time to haul somebody from, you know, Neelyville
all the way up to Poplar Bluff when there's
another call going on. So all those things come
into play. We know that's a problem. So that's
houses over and over. You know, when they see
that women know they're supposed to call, and
they're supposed to call every time, and they're
supposed to ask for a report, a copy of my
information report I just gave you, sir. And
they're supposed to have their pictures taken
and they're supposed to keep these. You know,
when they understand that, most of them will do
it, and it makes everybody's job easier.

Some things that we agreed across is
that respondents need to be served ex partes in
a timely manner. We are seeing people not get
served in jail. Now that -- you know, you can
find them. It's the same department. And
that's everywhere. I'm not just speaking about
our county. But that's what I'm hearing is that
these are things that need to be done. They
have a right to a hearing in 15 days. And women
have a right to get those orders of protection
and move on with their lives, not continue to
have them continued and to stress about that and
finally just give up and say I don't even
want it. You know, and to get things decided
like custody, you know, if there's going to be a
divorce. I mean, there are things that really
need to happen so that people can move on with
their lives.

We have the problem that women can live
15 miles from us and not have a clue how to get
there because they don't have a car. I'm not a
diligent proponent of sending advocates into
dangerous situations, so if they can get to the
Casey's General Store or they can call a cab to
get them somewhere, we'll be happy to pay any of
those expenses or pick them up. But, you know,
<table>
<thead>
<tr>
<th>Page 206</th>
<th>Page 208</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. one of the things we say we don't know the answer but it is a problem.</td>
<td>1. is that one judge gave it to his brother to hold. Well, batterers don't just come out of nowhere, and so we know that that may not be the safest place to store a gun when your brother is looking for somebody. So those are things to think about.</td>
</tr>
<tr>
<td>2. Across the board everybody said get law enforcement some training. And I know they get training, but I loved hearing this morning that we would even entertain the idea of ongoing required domestic violence training. There's ongoing POST training but that's also pick and choose to fit those areas, not on topic.</td>
<td>7. Another interesting thing that came up that you're not going to hear in St. Louis or Kansas City. There's this black powder season for hunting. Do you know what that is? It's a muzzle gun thing. It's not a firearm because it doesn't fire. So we've had situations recently guys are driving by their victim's homes with these black powder things going I'm not in violation of anything because it's not a gun. That's about power and control and manipulation.</td>
</tr>
<tr>
<td>8. So it would be a wonderful thing if we could refresh that from the top down because there are cultures in every community, there are cultures in every business, there are cultures in every service area and office, and we all know that. And so there needs to be a culture in law enforcement that this is a priority. 388 reports in our county is more than one a day.</td>
<td>12. And those are the kinds of things that we really -- if we're going to stop domestic violence we have to remember that people who choose to batter understand power and control. Which leads me to my next topic, and that is batterer's intervention.</td>
</tr>
<tr>
<td>9. There probably aren't very many crimes that there are more than one a day of. So we know it is a big deal. So we feel like that is an example right there.</td>
<td>13. Batterer's intervention needs to have some teeth in it. Does it work? I don't know. It's pretty new. I went to the Duluth Model</td>
</tr>
<tr>
<td>10. I also appreciated when we talked about getting certification for police departments. I'm on my health department board, and our health department had to be certified to pass all these tests to get to -- so it raises you up a level. I think that's a wonderful idea as part of maybe domestic violence being a component of that, that when, you know, they're looking at funding or whatever, that they have worked towards those goals of excellence in serving victims of domestic violence. So that would be something. We want to get those guns out of those batterer's hands. Missouri is No. 7 in the number of women killed by their partners. That is nothing to be proud of. ATTORNEY GENERAL KOSTER: Where is that statistic accessed from? MS. ALLEN: Department of Justice. MS. COBLE: Department of Justice released it Thursday. MS. ALLEN: We tied with Arkansas. So that's not a good thing. And most of those probably were killed by guns. I don't know that.</td>
<td></td>
</tr>
<tr>
<td>14. Batterer's intervention needs to have some teeth in it. Does it work? I don't know. It's pretty new. I went to the Duluth Model</td>
<td></td>
</tr>
<tr>
<td>15. Training, and that's the one we use, 26 weeks.</td>
<td>3. What we see is people who can afford attorneys get those dealt down to nothing or anger management which is just kind of silly for someone who uses power and control. They manage their anger very well. But we see men who tend to be in the same situation don't have a lot of resources. They also -- if they end up on probation, we don't see a lot of times that that's a priority through the Department of Corrections for our probationers to do that. We don't see especially with private probation that there's a real push for them to complete that.</td>
</tr>
<tr>
<td>16. Batterer's intervention needs to have some teeth in it. Does it work? I don't know. It's pretty new. I went to the Duluth Model</td>
<td></td>
</tr>
<tr>
<td>17. Batterer's intervention needs to have some teeth in it. Does it work? I don't know. It's pretty new. I went to the Duluth Model</td>
<td></td>
</tr>
<tr>
<td>18. Batterer's intervention needs to have some teeth in it. Does it work? I don't know. It's pretty new. I went to the Duluth Model</td>
<td></td>
</tr>
<tr>
<td>19. Batterer's intervention needs to have some teeth in it. Does it work? I don't know. It's pretty new. I went to the Duluth Model</td>
<td></td>
</tr>
<tr>
<td>20. Batterer's intervention needs to have some teeth in it. Does it work? I don't know. It's pretty new. I went to the Duluth Model</td>
<td></td>
</tr>
<tr>
<td>21. Batterer's intervention needs to have some teeth in it. Does it work? I don't know. It's pretty new. I went to the Duluth Model</td>
<td></td>
</tr>
<tr>
<td>22. Batterer's intervention needs to have some teeth in it. Does it work? I don't know. It's pretty new. I went to the Duluth Model</td>
<td></td>
</tr>
<tr>
<td>23. Batterer's intervention needs to have some teeth in it. Does it work? I don't know. It's pretty new. I went to the Duluth Model</td>
<td></td>
</tr>
<tr>
<td>24. Batterer's intervention needs to have some teeth in it. Does it work? I don't know. It's pretty new. I went to the Duluth Model</td>
<td></td>
</tr>
<tr>
<td>25. Batterer's intervention needs to have some teeth in it. Does it work? I don't know. It's pretty new. I went to the Duluth Model</td>
<td></td>
</tr>
<tr>
<td>26. Batterer's intervention needs to have some teeth in it. Does it work? I don't know. It's pretty new. I went to the Duluth Model</td>
<td></td>
</tr>
<tr>
<td>27. Batterer's intervention needs to have some teeth in it. Does it work? I don't know. It's pretty new. I went to the Duluth Model</td>
<td></td>
</tr>
<tr>
<td>28. Batterer's intervention needs to have some teeth in it. Does it work? I don't know. It's pretty new. I went to the Duluth Model</td>
<td></td>
</tr>
<tr>
<td>29. Batterer's intervention needs to have some teeth in it. Does it work? I don't know. It's pretty new. I went to the Duluth Model</td>
<td></td>
</tr>
<tr>
<td>30. Batterer's intervention needs to have some teeth in it. Does it work? I don't know. It's pretty new. I went to the Duluth Model</td>
<td></td>
</tr>
<tr>
<td>31. Batterer's intervention needs to have some teeth in it. Does it work? I don't know. It's pretty new. I went to the Duluth Model</td>
<td></td>
</tr>
<tr>
<td>32. Batterer's intervention needs to have some teeth in it. Does it work? I don't know. It's pretty new. I went to the Duluth Model</td>
<td></td>
</tr>
<tr>
<td>33. Batterer's intervention needs to have some teeth in it. Does it work? I don't know. It's pretty new. I went to the Duluth Model</td>
<td></td>
</tr>
<tr>
<td>34. Batterer's intervention needs to have some teeth in it. Does it work? I don't know. It's pretty new. I went to the Duluth Model</td>
<td></td>
</tr>
<tr>
<td>35. Batterer's intervention needs to have some teeth in it. Does it work? I don't know. It's pretty new. I went to the Duluth Model</td>
<td></td>
</tr>
<tr>
<td>36. Batterer's intervention needs to have some teeth in it. Does it work? I don't know. It's pretty new. I went to the Duluth Model</td>
<td></td>
</tr>
<tr>
<td>37. Batterer's intervention needs to have some teeth in it. Does it work? I don't know. It's pretty new. I went to the Duluth Model</td>
<td></td>
</tr>
<tr>
<td>38. Batterer's intervention needs to have some teeth in it. Does it work? I don't know. It's pretty new. I went to the Duluth Model</td>
<td></td>
</tr>
<tr>
<td>39. Batterer's intervention needs to have some teeth in it. Does it work? I don't know. It's pretty new. I went to the Duluth Model</td>
<td></td>
</tr>
<tr>
<td>40. Batterer's intervention needs to have some teeth in it. Does it work? I don't know. It's pretty new. I went to the Duluth Model</td>
<td></td>
</tr>
<tr>
<td>41. Batterer's intervention needs to have some teeth in it. Does it work? I don't know. It's pretty new. I went to the Duluth Model</td>
<td></td>
</tr>
<tr>
<td>42. Batterer's intervention needs to have some teeth in it. Does it work? I don't know. It's pretty new. I went to the Duluth Model</td>
<td></td>
</tr>
<tr>
<td>43. Batterer's intervention needs to have some teeth in it. Does it work? I don't know. It's pretty new. I went to the Duluth Model</td>
<td></td>
</tr>
<tr>
<td>44. Batterer's intervention needs to have some teeth in it. Does it work? I don't know. It's pretty new. I went to the Duluth Model</td>
<td></td>
</tr>
<tr>
<td>45. Batterer's intervention needs to have some teeth in it. Does it work? I don't know. It's pretty new. I went to the Duluth Model</td>
<td></td>
</tr>
<tr>
<td>46. Batterer's intervention needs to have some teeth in it. Does it work? I don't know. It's pretty new. I went to the Duluth Model</td>
<td></td>
</tr>
<tr>
<td>47. Batterer's intervention needs to have some teeth in it. Does it work? I don't know. It's pretty new. I went to the Duluth Model</td>
<td></td>
</tr>
<tr>
<td>48. Batterer's intervention needs to have some teeth in it. Does it work? I don't know. It's pretty new. I went to the Duluth Model</td>
<td></td>
</tr>
<tr>
<td>49. Batterer's intervention needs to have some teeth in it. Does it work? I don't know. It's pretty new. I went to the Duluth Model</td>
<td></td>
</tr>
<tr>
<td>50. Batterer's intervention needs to have some teeth in it. Does it work? I don't know. It's pretty new. I went to the Duluth Model</td>
<td></td>
</tr>
<tr>
<td>51. Batterer's intervention needs to have some teeth in it. Does it work? I don't know. It's pretty new. I went to the Duluth Model</td>
<td></td>
</tr>
<tr>
<td>52. Batterer's intervention needs to have some teeth in it. Does it work? I don't know. It's pretty new. I went to the Duluth Model</td>
<td></td>
</tr>
<tr>
<td>53. Batterer's intervention needs to have some teeth in it. Does it work? I don't know. It's pretty new. I went to the Duluth Model</td>
<td></td>
</tr>
</tbody>
</table>
intervention is we cannot leave victims out there by themselves while their abusive partners are going through batterer's intervention. We need to have -- we have an outreach advocate assigned especially just to those women whose partners or former partners are in batterer's intervention because we know the danger will be heightened when they're in a class telling them that they've made bad choices or -- you know, and they're working through some of their own things.

One thing also when we talked about the circuit clerks that I have -- what we have done there, and I know they've been cross-trained and everybody knows how to do everything, and that's a great theory for all the many things that clerks do. We have one clerk who we paid for and we had to like -- she had to go through volunteer training otherwise she couldn't come to the training for this, but we tricked the Coalition. No. No. We made her go -- she came and she went through volunteer training, became a real volunteer at Haven House and she did volunteer on the side. I'm just joking.

Then she was allowed to go to State conference and to some court advocacy training, and what we got from that clerk in the office was buy-in. She was no longer handing people a piece of paper and going oh, it's my turn again. Because they have a million things to do and the woman is always upset and all those difficult things, but once you really understand you're -- then you're really an advocate. You can't help yourself. So I don't have to worry if Jennifer is stuck in court all day long. I have somebody in the clerk's office who will be taking care of those folks and will be calling downstairs to say he's in there. He's in jail. Those kinds of things that are just a little bit beyond what they have to do, but that's certainly a way that we can -- that we can collaborate. And those counties that can't afford to have an advocate, if we could have somebody say, you know, I could step up and do that. Maybe that's not possible.

ATTORNEY GENERAL KOSTER: How many counties don't have an advocate?

MS. COBLE: More than half.

MR. LAMB: I don't know the exact number, but there's a significant number, and we could get those.

REPRESENTATIVE STILL: And where are most of the advocates stationed? In the clerk's office? In the prosecutor's office?

MS. COBLE: It depends.

MR. LAMB: It does depend.

MS. ALLEN: You know courthouses.

They're vying for space. You know, we'll take a broom closet if we can get it. But we have nice offices. We have one -- one of ours is in the prosecutor's office. She's the criminal one, of course. And then the other one is just downstairs and has an office. I mean, we get moved around once in a while, but in return we've done some remodeling and decorating and -- I mean, we barter.

ATTORNEY GENERAL KOSTER: Again, I have another uneducated question. If having a clerk assist in the filling out of a form runs the risk of practicing law without a license, and if that's the rationale, why isn't the same rationale applicable to an --

MS. ALLEN: It is. We don't do it either.

ATTORNEY GENERAL KOSTER: Okay. So if you don't do it either what -- why --

MS. ALLEN: And here's our dilemma. We're not allowed to write on the paper. You know, you can -- it's about telling them which kind of order to get, right? I mean, those are the kind -- you don't want to give that kind of advice. But to say I don't know what that word means. It was pointed out by one of my colleagues today that many of our clients who come in don't know how to read and write.

That's the truth. And you might say I think incident is spelled I-N-C-I -- you know, so that the judge can read them when they get them, but they have to do that themselves and it takes awhile.

ATTORNEY GENERAL KOSTER: So when you train the advocates there's a limit to which you will allow them to participate in the decision-making process filing out that form?
what's helpful here is for a judge to know the first thing that happened or what was the worst thing that happened to you, what was the most recent thing that brought you into the clerk's office today that makes you so afraid right now. So those kinds of things. But if you're -- it's a fine line, and it can be very difficult.

MS. ALLEN: And pre-court advocate days I went to courthouses -- five different courthouses and it was one of these numbers. And you know, they're hard to read and you have this much space, and she said, he said he would kill me and the judge goes so. What he needs to know is that he held a gun to my head last year. He did this to me six months ago. He said, he's going to kill me. I believe it. The judge might believe it too, but he or she has to have that information. And so that's the kind of assistance that's given. Not what you should apply for or not -- you know, and not writing it out. So you have to walk a fine line.

ATTORNEY GENERAL KOSTER: If I could ask a question of Greg? Greg, what is the clerks' reaction to Mary Ann's suggestion that the clerks are trained on this in order to partially sensitize them to it, if they're trained also to stop at a certain level of advice or counseling that they can provide?

MR. LINHARES: There's a clerk sitting right behind me so I might defer to Christy more than --

ATTORNEY GENERAL KOSTER: Would you identify yourself for the record?

MS. BLAKEMORE: Christy Blakemore, Circuit Clerk, Boone County.

ATTORNEY GENERAL KOSTER: Blakemore?

MS. BLAKEMORE: Uh-huh.

ATTORNEY GENERAL KOSTER: Welcome.

MS. BLAKEMORE: Thank you. We would be happy to do that. And I think a lot of ours is we don't have that background, that mindset of an advocate. You know, we've got the mindset of we've got to get this paperwork done as quickly as possible, get it to the judge, and I've got, you know, 20 more sitting over here that have to be processed. That's our mindset. If we had the people to do that, I think across the board clerks would be happy to help out in that area. We just don't. They're not -- clerks aren't just doing the ex parties. They're also doing divorces. They're doing name changes. They're doing -- you know, that's the problem.

ATTORNEY GENERAL KOSTER: Thank you.

MR. LINHARES: It's where the facts end and the law begins. I mean, that's the question really.

REPRESENTATIVE STILL: A question for Christy or anyone else. Is it acceptable if there were a trained volunteer to have them stationed at a clerk's -- in a clerk's office?

MS. BLAKEMORE: Of course, yeah. And we've got them -- the prosecutor's office, they're up there and they help out a lot. True North helps in Boone County a lot. If they -- if it is one that is very difficult, a detailed one, lots of times we will suggest to them you might want to go, you know, talk to the shelter. We'll be happy to give you the paperwork, but if you're going to need additional assistance, maybe a place to stay, then a lot of times we will suggest that to them. They don't have to, but we'll suggest it.

MS. ALLEN: In our situation that's the first thing that they do is say the advocate is downstairs. This is where her door is, by the Coke machine. You know, but because we have that luxury of being in the courthouse.

MS. COBLE: It's real hard to do that with a volunteer; to have any consistency. It's been tried and not worked.

MS. LAMB: But it can work. I came from Audrain County which is a rural county so I empathize with you. Absolutely. And our circuit clerk had a relationship worked out with the local shelter, which I was on the board of, and that individual was a paid individual, and they were stationed at that office, and that made a world of difference. So those creative solutions are out there.

MS. COBLE: Well, and I might add too, probably the only time that bright line gets drawn, quite frankly, between you're assisting and you are providing legal advice is if there's been some other conflict in the community involving those players. If it's helpful to have those forms filled out very cleanly, you are not likely to be in trouble for unauthorized
practice of law. If there has been any type of public conflict between the judiciary and other members of the community then all of a sudden there’s a line. And I encountered that. You know, that all of a sudden then everything had to be checked by legal services which meant that things couldn't get done. And it was just a point of personal conflict.

If you get together in those coordinated community response meetings you can actually avoid that and maybe get some greater clarity on where those lines are.

ATTORNEY GENERAL KOSTER: The broader point goes again to the Sheriff’s Association message from earlier which is there are a lot of enforcement agencies besides law enforcement themselves that need -- that would benefit from training.

MS. ALLEN: Right.

ATTORNEY GENERAL KOSTER: Continue.

MS. ALLEN: I have one thing to add on the gun issue is that my civil court advocate told me that probably 50 to 60 percent of the victims that she works with report that guns are involved in the abuse committed against her. So it's not like occasionally someone has a gun. It's half the time there's a gun involved. And we're No. 7. There's a reason for that.

ATTORNEY GENERAL KOSTER: Any other questions for Mary Ann?

REPRESENTATIVE STILL: I want to say thank you for your outstanding service.

MS. ALLEN: Thank you.

ATTORNEY GENERAL KOSTER: Thank you for your service and for a great presentation. We appreciate it.

Savitsky?

MS. SAVITSKY: Yes.

ATTORNEY GENERAL KOSTER: Beth Savitsky who is in from Kansas City today who is the executive director of the Kansas City Anti-Violence Project is welcome. She has driven to Columbia today to offer personal perspectives on the domestic violence issue.

Thank you again for making the drive and joining us.

TESTIMONY

BY MS. SAVITSKY:

Thank you very much for having me here today. I'm honored to sit at the table in front of you guys. As you said, I'm the executive director of the Kansas City Anti-Violence Project, and we work with lesbian, gay, bisexual and transgender victims of violence and that includes domestic violence.

Thank you to the Attorney General for bringing up the LGBT issue. We're very excited to have Joan Gummels who we've worked with in Kansas City a little bit and to have the LGBT related human rights complaints come out. We were pleased to see that. And thank you for including the LGBT voice in the discussion of domestic violence, and thank you to the rest of the panel as well.

I don't know if you guys received a power and control wheel, or if you've seen them before, but this is something that we use specifically in the LGBT community. There are a few more spokes on that wheel that you won't see on the other wheels that typically use gender as a screening tool and as the binary to talk about domestic violence.

So the Kansas City Anti-Violence Project grew out of a gap in services; a very identified gap; a murder/suicide that happened actually on the Kansas Metro Side of two gay men. So the community started talking if the victim, who was a gay male, was to call the domestic violence hotline, would he receive services, and the answer was no. Typically what would happen is that someone would hear a male voice on the hotline and say I'm sorry, we don't serve men and hang up on him.

So we recognized the use of gender as a screening tool when working with domestic violence victims and formed our own organizations to address the issue of violence in our own LGBT communities. We worked closely with the Missouri Coalition Against Domestic and Sexual Violence. We're also part of the sister organization, The Kansas Coalition, and we also worked a lot with the National Coalition of Anti-Violence Programs that works with organizations that deal with LGBT victims across the State.

We received our 51(c)3 in 2003 so we're a fairly young organization. We've participated in domestic violence reports with the FCADSB, as well as nationally there's an annual report that talks about LGBT victims of domestic violence.
1 That's released every year, the only report of its kind. So to talk a little bit about the population that I'm referring to, LGBT communities, we talk about LGBT folks being about 10 percent of the community. Sometimes people argue that it's not quite that many. So if we use a rough estimate of 5 percent of the 6 million folks in the State, that's about 300,000 people in the State of Missouri that identify as LGBT. We're affected by domestic violence in quite the same ways and at quite the same rates. It's 1 in 4. So that's potentially 74,844 people in the State of Missouri that need help.

Over the last seven years we've grown out of very intense collaborative relationships with other service providers, a growth of our services, a growth of need for our services, and we have a unique mission. We're the only agency in Missouri that works specifically with LGBT victims. We're a non-residential program. We offer direct services to victims as well as outreach and education that partners with other groups and organizations to educate them on the topic.

Our direct services program helps folks with crisis intervention, case management, emergency assistance; a lot of the other services that you will see in similar programs, as well as having an LGBT resource guide of folks that we've screened to be LGBT or LGBT friendly. So it's not an obstacle for folks who are calling for help to worry, well, if I tell them that I'm gay, is that going to be an issue, or are they going to tell me well, you know, if you partnered with someone of the opposite sex, you wouldn't have this problem.

We've helped folks like Jake. Jake was one of our clients. He was with his partner for 11 years. His partner continually threatened to out him to his employer. He was a high school teacher. He was very concerned about losing his job, a very real thing that can happen. His partner would oftentimes emotionally berate him while he beat him and tell him that no one would care if he was not in this world because it's one less gay man to deal with. He found out about KCAVP, and we worked with him to relocate him to a school that had protection. There are certain areas of the State that have protection. And so he was safe in his job if anyone found out, and he had a place to live away from his abuser.

Since we began we've served over 270 victims; victims and survivors of domestic violence. We've also provided almost 170 safe bed nights to victims. Again, we're non-residential. We partner a lot with hotels, with community -- with our hotel partners as well as transitional living programs in the area that we've worked with.

As you can see on the power and control wheel there are a few tactics that LGBT folks experience that non-LGBT folks don't. In terms of using someone's identity against them in the power and control context, those can be very powerful tools. If someone really -- if part of who you are is part of the abuse, it's a very difficult thing to work out. And we also have to navigate other systems very carefully because we don't necessarily have the same opportunities and protections as everyone else.

Our outreach and education program goes out to the community to advertise our services as well as train a whole bunch of people. We've trained over 2700 people in the State of Missouri since we've started. This includes information about issues of homophobia, biphobia, transphobia, the terminology of LGBT issues, how to support LGBT victims if they disclose that they are LGBT, how to talk about intake forms, gender neutral language, those kinds of things. So we recognize that those barriers are system wide and sometimes we have to, again, navigate those systems very carefully.

ATTORNEY GENERAL KOSTER: Can I ask you a question?

MS. SAVITSKY: Sure.

ATTORNEY GENERAL KOSTER: I think this is the only area of State law in which State law expands to the LGBT community in any regard. Do you find that in the Jackson County area or more broadly that that the courts are responding to needs, concerns, situations in an open and unbiased fashion?

MS. SAVITSKY: Sure. Well, yes and no. A lot of the times folks don't want to go to court because they have to out themselves in court, and so basically their relationship is out on the table for everyone to see. So a lot
1 of times folks don’t want to even get a
2 protection order because it outs them. When
3 they do oftentimes -- there have been mutual
4 orders that have been granted. There have been
5 occasions where judges have ordered for there to
6 be -- I’ve forgotten the word. Where they --
7 where there's -- where they talk to each other.
8 MR. LAMB: Mediation.
9 MS. SAVITSKY: Thank you. There you
go. I lost my words. Rather than order an
issue they don't recognize; that because it's
two men or two women that there is power and
control of the situation. Depending on the
judge they -- it varies. Most of the time if
they -- our advocate and staff is becoming more
and more apparent in the community, and they'll
recognize that we are just the same kind of
victim as anyone else, and they'll take the case
seriously.

ATTORNEY GENERAL KOSTER: And for that
group of people who reach out to you for
overnight shelter services, are you able to
serve -- so far have you been able to serve all
of the requests, some of the requests? Do you
have to turn away -- are you able to --

MS. SAVITSKY: Occasionally we do have
to turn away. Typically because it's short-term
and that's -- it's a safety issue, we usually
will be able to meet that request. If the issue
is longer term we like to talk about safety
issues, what's going to happen after two days.
If it's not -- if they're going to go back, can
we talk about safety issues going back, or if
they want to get out of town we've oftentimes
worked with another anti-violence program
somewhere else to transport the individual to
either another shelter or transitional living
program somewhere else that there's more support
or if they have family and friends get them out
of town as well.

ATTORNEY GENERAL KOSTER: How many
hotel chains do you work with?

MS. SAVITSKY: Currently there's three.

We're always looking for more partners.

MS. KOSTER: Are they large corporate
hotels or are they --

MS. SAVITSKY: It just depends on the
manager; the relationship that we have with that
hotel manager. Because of the gender neutral
language in all of the grants that we get we
utilize a lot of the same funding that other
programs do and so those are some of the funds
that will help us pay for hotels.

ATTORNEY GENERAL KOSTER: Continue.
MR. SAVITSKY: Sure. So as I was
talking about the education outreach that we do,
we like to weasel our way in sometimes to
unfriendly places, but we always try and talk to
friendly places, whether it's other service
providers, schools, law enforcement, courts.
We'll really try and get to other groups and
say, you know, when you're talking about abuse
and relationships are you really making sure
that you're not leaving certain communities out
of the services that you're providing.

So we talk about victims of domestic
violence coming from all different communities,
and unfortunately, we're not always included in
the discussion. So again, I really appreciate
that. We couldn't have done what we do without
the help and support from other communities and
other folks that recognize that domestic
violence is an issue for everyone and it doesn't
leave certain communities out.

So again, thank you for the time today,

and thank you for your dedication to making
Missouri safer for everyone. I appreciate it.

ATTORNEY GENERAL KOSTER: Thank you.
Mary?

REPRESENTATIVE STILL: I am going to
have to leave, but, Beth, I want to say this is
very enlightening, and you have a lot of
courage, and I appreciate that. And, General,
thank you for your leadership on this issue.
Colleen, as always, thank you.

ATTORNEY GENERAL KOSTER: Any other
questions for Beth? Thank you very much for
your --

MS. COBLE: Are there specific
resources that would help your program in
certain ways, do you think? I'm thinking
particularly because there are so few other
identified focused programs like yours. Is
there anything that that -- it places you in a
unique position of need for -- you are a
statewide resource in that regard.

MS. SAVITSKY: Well, we really do rely
on our partner agents across the State. So when
we talk to an advocate in Jeff City about
someone who is in their area that can't get to
1 Kansas City, it's helpful having those -- having
2 that education for those other programs, talking
3 about, well, if you have someone who sounds male
4 on the phone how to not -- how to work with that
5 person successfully. So, you know, training,
6 which you guys do. You know, we come to annual
7 conference. We come to other regions to talk
8 about how to work with LGBT agencies. So we've
9 really found that other agencies are open to
10 hearing the information.
11 In terms of resources, you know, we're
12 a staff of four. So we are a very small
13 program. It's always nice to dream about a
14 bigger staff and more advocates being able to do
15 more outreach to more locations. So maybe --
16 you know, looking at a regional issue across the
17 State of Missouri.
18 ATTORNEY GENERAL KOSTER: Thank you
19 very much, Beth.
20 Our next and final witness today is
21 Katherine Wessling. Welcome. Katherine is
22 managing attorney for Legal Advocates for Abused
23 Women, and is here to offer a civil
24 practitioner's perspective on these issues.
25 TESTIMONY

1 BY MS. WESSLING:
2 Good afternoon.
3 ATTORNEY GENERAL KOSTER: Thank you,
4 Katherine.
5 MS. WESSLING: Thank you for having me
6 here. As you said, I work for Legal Advocates
7 for Abused Women which is a non-profit agency in
8 St. Louis, and the only things we do there in
9 terms of legal assistance are orders of
10 protection. So in my time there I've probably
11 done almost 3,000 of those. I've been there
12 since 1996. We serve seven counties, and we do
13 serve the LGBT community as well. So we do try
14 to help where we can.
15 What I'd like to do today for you is to
16 tell you what I and others in the community,
17 because I took a little bit of a pole when I
18 knew I was coming today, have identified in
19 Chapter 455, the Adult and Child Order of
20 Protection Statute, of places where we could
21 really use some help. So I'm going to go over
22 those, and then I have them for you in written
23 form, but I don't want you reading them. I want
24 you to listen.
25 Universally the thing that people want

1 is for there to be changes so that the judges
2 have to address child custody and child support
3 issues. Because in many, many of our cases they
4 will say okay, we're giving the order of
5 protection but all the rest of that stuff, go
6 file for divorce, go file for paternity, do
7 whatever you need to do. And the whole point of
8 the order of protection is to get immediate
9 relief so that this relationship can end in a
10 safe and viable way. And if the only thing that
11 the courts are willing to do is to make the
12 blanket order don't abuse anymore, we are
13 ignoring all of these practical problems that
14 are the reasons why people return to a
15 relationship that is not healthy. It is not
16 because they like the relationship. It is
17 because they need to feed their children,
18 because they don't have a place for them to
19 sleep at night. So ignoring all those parts of
20 the statute is a huge problem, and it happens
21 many, many times. And I serve seven counties,
22 and it's almost a universal problem.
23 ATTORNEY GENERAL KOSTER: So the Judge
24 Michael in St. Louis who testified.
25 MS. WESSLING: Burton.
1 off. And so hopefully they checked the box off when they filled out the petition for the order of protection. If they didn't, of course, then we have a due process issue and we can't just walk in and say now we want to do this. But hopefully they have checked the box, and many times they have checked the box. That's not our problem. It's just resistance by the Court.

2 ATTORNEY GENERAL KOSTER: Can you deal with these issues prior to a full order? If you're in a temporary order situation without the admission of evidence and you have no idea what his salary is and you really only have a -- you don't have a good view of what has happened last night or earlier tonight. A judge is not equipped to make such decisions at that juncture or do you disagree?

3 MS. WESSLING: They're not equipped to make child support decisions, and I don't really quibble with that. Sure I'd like to have it there, but I understand the legal reasons why they're not going to jump in and start doing that. At the ex parte level they can make custody determination, and that, again, on occasion has been a problem where the judges choose to -- there are four things they could issue with the ex parte level. They can order not to abuse, that whole thing. They can order to make the abuser leave the home. They can have the abuser not communicate with the victim, and they can give custody of the children to the person who filed.

4 ATTORNEY GENERAL KOSTER: Is that in the statute now?

5 MS. WESSLING: Yes. That's in the statute now. And it's very judge specific as to whether they will actually go ahead and make that custody order. That custody order can cause someone problems if they don't make it because we have a child snatching issue going on and people are afraid to send their children to school. So it really -- it shouldn't necessarily be laying a premise for what will happen farther down, because I agree the judges haven't heard the evidence yet. But at least to tell people what the ground rules are instead of this 15-day waiting period where everyone is just in a free for all. So it's a real problem. And many more people will dismiss their petitions and give up on the court system over that than almost anything else from what I see.

6 ATTORNEY GENERAL KOSTER: With all the experience you have in the legislature how do you think the legislature reacts to such an idea? And maybe if it was confined to the full order.

7 MS. COBLE: But the moment of danger is for the children as well, and the premise of an emergency order of protection is I am in danger, and I need assistance from the courts. The children do not live on planet child. They are with their mom more typically, and yet they -- that unit of the family that can be together safely is not recognized. And there's hesitancy within the General Assembly.

8 ATTORNEY GENERAL KOSTER: Joan, I'd be interested in knowing Judge Daniels' view on the custody and child support issue. It's really -- it's a powerful idea but a lot of aspects to consider.

9 MS. COBLE: The custody provision has been there since 1980.

10 MS. WESSLING: Yeah. It's just whether they use it or not. And what you'll kind of see -- that's my first point because it's so prevalent, is almost everything I'm going to say has that same common thread running through it, that we are looking at she's probably making this all up to get an advantage in the divorce. That's unfortunately a very prevalent fear in the courts, and unfortunately a lot of times I'm battling against that presumption rather than a feeling of we want to help a person who's really in danger. So we have that as Point 1. Point 2 is there's a provision in the statute, 455.050, that says if -- that the courts of full order can only issue a custody order if there's no prior order already out there existing or

60 (Pages 234 to 237)
pending regarding custody.

Now, this pending word is a problem because what will happen is my client will file an order of protection. We will go for the hearing two weeks later, and the day of the court hearing the respondent will walk in with his attorney and say I filed for divorce five minutes ago, and the judge will say okay. That wipes everything out. We'll deal with whether we're going to order him away from you or not but we're not going to deal with custody, support, anything like that.

She may not have been served. There's no hearing set that's going to deal with any of these issues, but for many judges because that word pending is in there they will interpret it that way. As soon as something is filed they consider it pending, and without service they don't even have jurisdiction over it yet, but they will still consider it pending. And so that's a real common way for abusers and their lawyers to make the order of protection process very meaningless for the person who needs the protection.

It would really help if we could have some adjustment to that word in the statute. I understand if there's an existing order that's already in existence and there are other ways to modify that, but when there's no order already out there and it's just maybe some day we'll get one, it's a problem. And so that -- that goes along with that first one.

There is a provision we fixed not long ago -- well, probably a little while ago now about mutual orders of protection. The statute right now says there's no mutual order of protection that can be entered unless both parties have filed a petition asking for an order of protection against the other. You can't walk in with one person having filed and suddenly say you both have an order of protection against the other. Well, the problem is the same thing.

The abuser or the other side will walk in the day of hearing or maybe right after they got served, file for an order of protection, and the easiest thing for the Court to do is to say why don't we just say stay away from each other. We'll give you both an order, and what's the problem with that if you don't want to be around each other anyway. Well, the problem is after years of being told no one is going to believe you, no one believed you. So it really gives the courts an out to not fact find. We need the courts to do their fact finding to figure out who they think is the person asserting the power and who isn't. And when mutual orders of protection are allowed, it just doesn't happen. So I would really like to see the law be strong enough to say there are no mutual orders of protection.

If two people are violent -- and violence and abuse are two different things. If two people are violent maybe neither one needs the order of protection. Speaking from my own perspective on that. But if someone is actually being abused, we need the courts to make a decision on who it is and then to move forward to protect that person. So I would suggest that you look at that because that's a real problem for victims as well.

Another bootstrapping thing that comes in is paternity. A lot of people who file orders of protection are not married to each other or they haven't gone through already a legal lawsuit to figure out if dad is the dad of the child. So what happens is, you know, 10 years into this child's life no orders of child support have gone on the whole time. There's been nothing in concrete saying he's the dad. Mom files a child's order of protection and suddenly it's I want every other weekend with the child, and they're skipping the whole establishing that they're the legal father in the first place. You know, it's like have the cake but I didn't want to pay for it first kind of thing.

I think it would really help if the statute would clarify that without a legal establishment of paternity there shouldn't be visitation discussion. There also shouldn't be child support ordered because maybe he's not really the dad. I mean, I'm not saying I want it all either, but it needs to be established before the order of protection process, not in the middle of it just because everybody knows he's dad and now we're going to pretend like the paternity laws aren't relevant anymore. It happens a lot that way.

I'll admit that with my clients
sometimes that will put them at a little
disadvantage because they want that child
support, but there are more of my clients who
are worried about the safety of their children
then there are clients who are doing it for
child support.

ATTORNEY GENERAL KOSTER: Do you worry
that that determination could delay the process
for weeks and maybe a couple months? What's it,
a DNA determination?

MS. WESSLING: Well, I don't think
that's an order of protection issue. The order
of protection process should go on. It's
separate.

ATTORNEY GENERAL KOSTER: Paternity.
MS. WESSLING: Paternity can go be its
own thing. Someone can file for paternity. If
they want visitation rights, do it the way the
law has set up for it. Don't mix it in with the
order of protection. I think they're two
separate things, and they should be kept
separate.

Okay. This one is a little bit -- this
is one that came from some advocates who work
with the police department. In the order of
protection process we have mostly standing
categories that require some sort of intimate
partner relationship between the parties, but
then we have this catchall about stalking, and
what happens is that people go and file
petitions of orders of protection alleging
stalking when their neighbor has their tree
hanging over their driveway and won't cut the
branch off, or there's a big fight among a whole
bunch of kids in the neighborhood.

I was in the courtroom not two weeks
ago when the judge called the case and 10 people
stood up because the entire block was there.
You know, they're fitting these other situations
into this process because of the way the
stalking has been injected. Now, obviously true
stalking by some creepy person who saw you at
the gym and is now following you around, that's
a real problem and I don't think we should
ignore it.

I'm wondering if a better way to handle
purely stalking without intimate partner
connections going on is to put that in a
separate type of proceeding so that these family
court cases don't get bogged down with the

ATTORNEY GENERAL KOSTER: That's a very
interesting point.

MS. WESSLING: I think it would help
the judges out too. The dockets would change
dramatically if we did that. Going back to the
visitation issue. If paternity has not been
established then what we have is the problem
where the Court says well, if we don't know that
that's dad, we can't issue an order giving mom
custody because we don't know that there isn't
another dad out there. He's not a party to this
case, and we can't make an order that adversely
affects his rights which I can understand.

Instead could the statute or the judges
look at wording such as okay, we're not giving
someone custody but we're saying this person
doesn't have custody. This is a dangerous
person who has been abusive to the adults in the
situation. We're not saying she has custody but
we're saying he does not. I think that's one
way to get around it. It doesn't infringe on
anybody else's rights, but the way our forms are
set up right now doesn't really include that
option, and I think that would make the judges a
little more comfortable if we gave them
something like that.

I would really like to see more
emphasis on understanding impact on children of
domestic violence because pretty much what we
see is okay so it's between mom and dad but he
has a right to see the kids. I realize I'm
using the she/he language, and I don't mean to
offend. Obviously, it works the other way in
those cases, but this is what I tend to work
with so I fall into those pronouns.

I would really like to see that when
child orders of protection are involved --
because they order a guardian ad litem in those,
the attorney for the children. The ABA section
of family law has standards for attorneys representing children in family law cases, and the most basic one is that they meet with the child before they come to court. I can't tell you how many times that does not happen, and the immediate approach is let's just work out joint custody. That immediately puts the victim of domestic violence in the category of the problem parent because they have reasons why they think that's not appropriate. And so I would really like to see imbedded somehow into the child order of protection statute requirements that the court voir dire a guardian ad litem prior to them participating as an attorney to make sure they fit these family law standards. I wish I didn't have to say that because there are a lot of good guardian ad litems out there, and they're doing exactly what they should do, but there are also cases where it's seen as I'm not going to get any money out of this, and I'm not educated in domestic violence, and quite frankly the courts want them to mediate. They don't want them to represent the best interest of the child. They want the guardian ad litem to be a mediator, and that's not their role. It's not their role at all. I would like to see some language emphasizing what their role really is because it's not happening on its own that way. And along with that I would like to see in 455.050, again, that if there's a finding that domestic violence has occurred. Right now what's happening in practice is that the person who has alleged the domestic violence and has filed for the order of protection is the one who also bears the burden of proving domestic violence is happening, that burden ought to shift over to the person who's doing the abuse to say this is why visitation won't hurt the children. I say after a finding has been made because I think that that should be the basis for almost everything we're doing here. It seems to come in at the very end. You know, in these order of protection cases we go in and the first thing everyone wants to do is sit down and talk about all right what can we work out so that we don't have to have a hearing on this.

Well, if you haven't heard anything, of course, they aren't taking the abuse seriously because they don't want to talk about that part. They want to figure out how can we exchange the kids so that the parties don't see each other and what's the appropriate amount of child support. Honestly, I believe that the judges feel that they are doing a good thing in that because they're thinking well, she's getting the order of protection so why would there be a problem. So I think their hearts are in the right place because I do -- that is where they're coming from, but they're not getting to the nuance of what's going on here. They're not addressing how that power and control is infiltrating all these parts of their lives, and how it's affecting the kids.

I went and spoke at Sanford Brown College the other day and -- about domestic violence, and a young woman raised her hand who's about 20 now and said this happened with my parents. She said they sent me off with my father every other weekend, and it was just awful. He spent the whole time asking me about my mom and talking about how horrible she was.

And no, he wasn't hitting her but that was a horrible thing to do to a child. I really hope that some of the children who have been in these situations as they grow up are able to start to come forward in testimony to you as well and to others about what their experience was like with the laws that we've been existing under because their perspective has really not been heard very well. And I think that -- I was really glad she was brave enough to raise her hand and say that. I really was. And the final thing that I would like to see in my little list of Top 10 is that recent case law did clarify that guardian ad litem fees are court costs and that a petitioner who files because they do not pay court costs for an order of protection should not have to pay that. Well, because it's in case law not all the judges are aware of that, and especially if the person doesn't have a lawyer they often will get hit with half the GAL fees or something like that. So I think it would be nice if the statute would certify that for our judges because we've already got it in case law.
1 So these are my Top 10. I believe I 1 to have more good ideas than we're going to be
2 have included the most important things that 2 able to put in one document. They just are
3 people have told me. I won't claim that anyone 3 terrific.
4 automatically subscribes to this. So if some 4 I thank everybody for their interest
5 legal services attorney says I didn't say to 5 and their passion around such an important topic
6 voir dire GAL's then they probably didn't. I 6 and for the service that so many of you give on
7 have this for you with the statutory sites for 7 a daily basis but don't get recognized for in
8 each thing that I mentioned. I also have the 8 helping men and women and children across the
9 statutory summary chart of domestic violence 9 State of Missouri work through these difficult
10 civil protective orders nationwide that's 10 situations.
11 produced by the American Bar Association 11 With that we'll close today's hearing
12 Commission Against Domestic Violence. I didn't 12 and see you in Kansas City on September 27th.
13 know if you already had access to that, but I 13 Thank you.
14 brought it. 15
15 ATTORNEY GENERAL KOSTER: I don't know 16 that I've seen that. I'm glad you brought it.
16 that I've seen that. I'm glad you brought it. 17
17 Your presentation was excellent. I probably 18
18 agree with, I don't know, a lot of them. But 19
19 even the ones that I wasn't ready to jump on 20
20 board with, all of them were very, to steal your 21
21 word, nuanced and well thought out and very 22
22 concrete. 23
23 Do you have any questions? 24
24 MS. COBLE: I think what you've 25
25 identified is indeed one of the biggest issues

1 that women struggle with around the State, and 1
2 that is if I can't go there with my kids, I 2
3 don't want to go. And we seem to reinforce that 3
4 inadvertently in our systems, and I hope that we 4
5 can make it right. 5
6 ATTORNEY GENERAL KOSTER: Jason? 6
7 MR. LAMB: My question is just again to 7
8 thank you and to reinforce. I agree with you in 8
9 your anecdotes. As a former prosecutor and in 9
10 private practice with a lot of family law, you 10
11 are exactly right that it forces a terrible 11
12 choice for a petitioner who can't afford an 12
13 attorney to go in pro se and go through this 13
14 process and to fear sending their child to 14
15 school because the abuser may lawfully come and 15
16 take the child and then force them back into the 16
17 home as a way of manipulation as we've heard so 17
18 often today repeatedly. So thank you for your 18
19 insight. 19
20 ATTORNEY GENERAL KOSTER: Well, we've 20
21 completed about 10 hours of testimony, and the 21
22 testimony, again, just continues to be very 22
23 pointed and intelligent and helpful. And I 23
24 think that there are so many good ideas that are 24
25 coming out of this that it's -- that we're going

1 CERTIFICATION 1
2 2
3 I, Susan M. Fiala, Certified Court 3
4 Reporter, Registered Professional Reporter, 4
5 within and for the State of Missouri, DO HEREBY 5
6 CERTIFY that pursuant to notice/agreement, the 6
7 aforementioned proceedings were held before me 7
8 at the time and place hereinbefore mentioned, 8
9 the proceedings were taken in shorthand and 9
10 later reduced to printing; and said transcript 10
11 of proceedings is herewith forwarded to the 11
12 noticing party.

_______________________________ 16
Susan M. Fiala 16
Missouri CCR #920, CSR, RPR