Pennsylvania Interbranch Commission for Gender, Racial, and Ethnic Fairness Domestic Violence and Sexual Assault Victims Committee

And Safety for All: A Guide for Making the Courts Safe for Victims of Domestic Violence and Sexual Assault





Pennsylvania Interbranch Commission for Gender, Racial and Ethnic Fairness

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Executive Director, Lisette McCormick, for their diligence and skill in

In particular, the Commission is grateful to Chief Justice Ronald D. Castille safeguard the most vulnerable of our citizens who enter the courthouse

Introduction

Domestic relations cases present unique safety challenges to the courts. The potential for serious and violent conflict within the courthouse, and in court-related facilities, is heightened in these cases and it is imperative that safety procedures and protocols are specifically designed to meet these challenges. This report offers a range of options for developing safety protocols and ensures the safety of both litigants and court personnel.

Court-Related Facilities

One of the key recommendations of the Pennsylvania Supreme Court Committee on Racial and Gender Bias in the Justice System was that every courthouse should "establish a physically safe environment for survivors [of domestic violence and sexual assault] where they can proceed with legal actions free of interference from the defendant." (See, Final Report of the Pennsylvania Supreme Court Committee on Racial and Gender Bias in the Justice System, March 2003, at 412.) These safety procedures, most importantly weapons checks and metal detectors, are provided in most courthouses,

but are not necessarily available in buildings used for other court-related activities. Court-related contacts between a victim and a batterer or defendant may be dangerous; therefore, all courtrelated facilities should have the same protections that courthouses have.

All Related Domestic Relations Hearings

In order to reduce the possibility of further harm to the victim, experts recommend that any activity where the victim and the perpetrator may come into contact with each other should take place in a safe, secure and neutral facility, such as the courthouse. These activities include, but are not limited to, custody and support proceedings, parenting education, mediation, divorce master proceedings, supervised visitation and supervised exchange. If possible, the parties should come at staggered times for court hearings and appointments. For example, the perpetrator should arrive approximately 15-30 minutes before the victim, allowing the victim free and safe movement in parking and entering the facility. Similarly, the victim should leave first, while



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Introduction (continued)

the alleged perpetrator remains in the facility for 15-30 minutes, so that the victim may safely leave the area without the possibility of being followed. Allowing phone or video conference participation is another effective mechanism to protect victims from possible violence.

Protection for Court Personnel

Safety procedures for victims are also important to protect judges and other court staff members. Indeed, violence against judges is most prevalent in domestic and custody cases. Accordingly, the following model safety procedures are essential to enhance the safety of all those who perform their duties and appear at the courthouse and court-related facilities. They have been culled from domestic violence programs and courts throughout the country. In addition, model procedures are recommended to reduce the rate of recidivism of batterers.

Access to Assistance

Model procedures are also proposed to promote greater access to the courthouse. Along with other states, Pennsylvania recognizes that victims of domestic violence should be provided with procedures that make the reporting of acts of violence easier and more accessible. 23 Pa. C.S.A. § 6101. Thus, just as model procedures are suggested to protect the physical safety of victims of domestic violence and sexual assault, so too are mechanisms necessary to ensure that victims of domestic violence and sexual assault can report acts of violence and seek the protection that is necessary for them and their children.

Budgetary Constraints

While we recognize that the unique budgetary constraints, staffing or physical space limitations of each court will influence what recommendations are feasible, we believe that with a bit of ingenuity and determination, administrators can find ways to make their facilities safer. For example, many of the Commonwealth's courthouses were built in the last century and have space devoted to storage of unnecessary materials. Some administrators have undertaken a review of space in their courthouses and have found areas that ultimately were cleared and converted to other uses. There are also rooms in courthouses that are underutilized at certain

times of the day. Careful scheduling can open up some of these rooms to shared use for portions of the day. Utilizing this extra space, for example, can allow the perpetrator and victim to be separated prior to Protection from Abuse hearings or can open a room where court-supervised custody exchanges can take place, overseen by security personnel to ensure the safety of all involved.

Judicial Responsibility

Judges have full discretion to set the standards to ensure the safety of the victims and the public in these types of cases. Their personal involvement and insistence on adherence to strict safety procedures in court and court-related facilities is critical to this effort

Safety of Victims in Courthouse Facilities

Mo	odel Safety Procedures	Notes
a)	Provide extensive, ongoing safety training to all court personnel, judges, court officers, security, advocates and staff.	Training should include, among other things, identifying signs of growing anger and demonstrating tactics that can defuse or contain outbursts.
b)	Provide separate waiting rooms for victims and perpetrators. If this is not feasible, then provide increased surveillance and victim escorts.	
c)	Maintain adequate lighting and conduct a weapons check at the entrance to the building and in waiting areas.	
d)	Provide a singular building entry with weapons and metal detector checks.	Two entrances to the building could be acceptable, provided that both are equipped with the same weapons and metal detector checks. If handled with sufficient security precautions and personnel, two building entrances could even be advantageous by permitting the parties to avoid contact while standing in line as they move through the security checkpoint.
e)	Provide separate parking and elevators for victims and perpetrators, if possible. Provide victim escorts, if requested or necessary.	
f)	Provide parties with separate copies of relevant orders at the conclusion of a hearing to minimize the parties' opportunities for out-of-court contact.	
g)	Install duress buttons for judges and other court staff in locations in which family-related court proceedings, such as custody pre-trial matters and support issues, are held.	more >>

Safety of Victims in Courthouse Facilities (continued)

M	odel Safety Procedures	Notes
h)	Install roving security patrol posts.	
i)	Provide intercom systems.	
j)	Keep offices locked, using an intercom to provide access.	
k)	Prepare checklists detailing what should be done in various situations, including emergencies, and provide regular training on checklists to staff.	
	Require that all victims' addresses be kept confidential.	This is already required by the Violence Against Women Act (VAWA), with regard to internet access to victims' records. The AOPC also has issued a policy statement that protects certain victim records from electronic access. Even though electronic access is restricted, in-court examination of documents is still permitted. Shelter addresses are protected and judges retain the authority to protect victims' addresses. 23 Pa.C.S.A. § 6112.

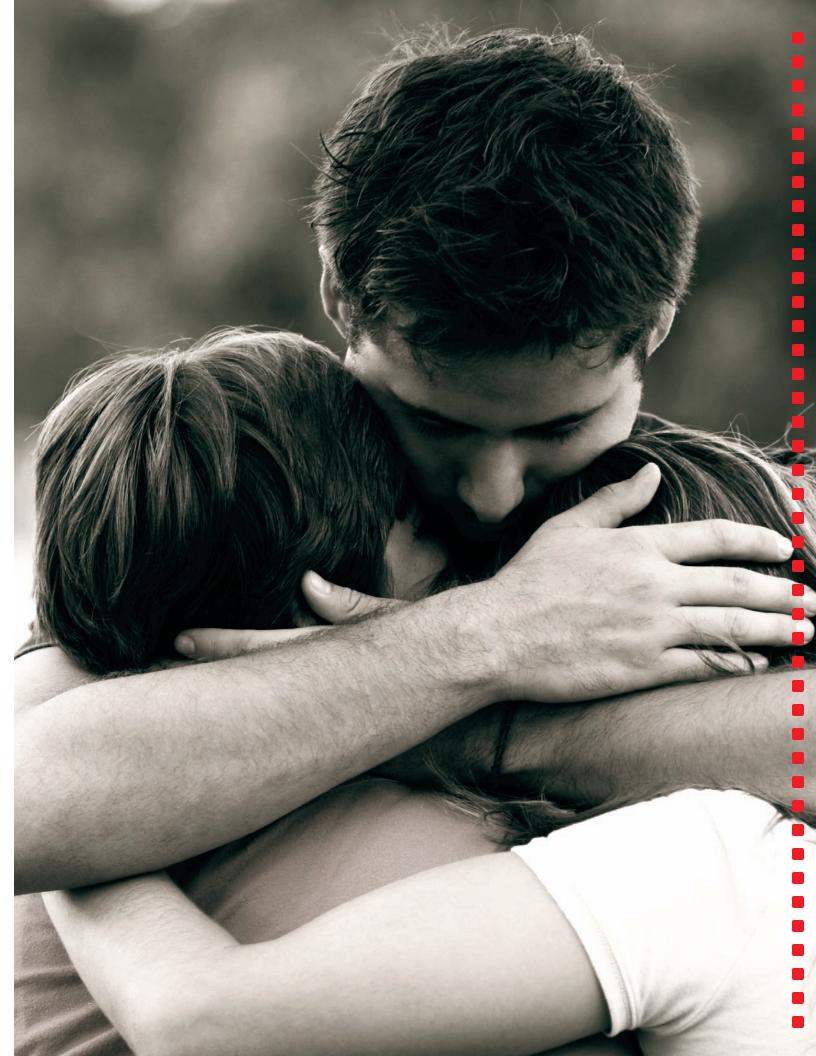
Safety of Victims in Court-Related Settings/Activities

1	Model Safety Procedures in Mediation	Notes
	Pursuant to Pa.R.C.P. 1940.3, courts are prohibited from ordering mediation in domestic violence cases.	Some victims may decide to participate in mediation. Any required activity should take place in a secure location (with security personnel and a metal detector).
2.	Model Safety Procedures in Divorce Master Proceedings	
a)	Divorce master proceedings should take place in a neutral and secure location, such as the courthouse (with security personnel and a metal detector) to ensure the safety of all.	
3.	Model Procedures for Parenting Education	
a)	If parenting education is required, arrangements should be made so that the victim and perpetrator need not attend at the same times or the same sessions, unless the parties request that they be permitted to attend together and the court agrees.	Sometimes joint attendance of the parties is unavoidable, such as when there is only one class scheduled for the county, or classes are always offered on the same day of the week/month. Victims should not have to choose between being safe and violating a court order. Likewise, perpetrators should not be required to choose between violating a nocontact order or violating a parenting education requirement. In counties with limited parenting education resources, options for obtaining waiver of the education requirement or for attending out-of-county programs should be offered.
b)	The date and time for the victim to attend the sessions should never be given to the perpetrator; and those details should not be included in the order. To do so may put the victim in danger.	In the Centre County Court of Common Pleas, the court sends the victim a date and time for his/her sessions and then after the victim has completed the sessions, the court sends a date and time for the perpetrator to attend a new set of sessions.
c)	Any required activity, such as a parenting education or counseling, should take place in a secure location (with security personnel and a metal detector) to ensure the safety of all.	more >>

Safety of Victims in Court-Related Settings/Activities (continued)

	Model Safety Procedures in Support, Custody, PFA and Other Petitions/Benefits Programs	Notes
a)	Any court-related activities should take place in a secure location, such as the courthouse (with security personnel and a metal detector) to enhance safety for parties and staff alike.	
b)	Parties should have the option of filing (for support or custody) at a time other than immediately following a court proceeding, so that the victim and the perpetrator are not forced to go to the filing office together.	
c)	Appointments for such matters should be confidential and scheduled separately, if possible.	
d)	Arrival and departure times for court proceedings should be staggered for the victim and the perpetrator, if possible.	Judges have the authority to set arrival and departure times for victims and perpetrators.
	Model Safety Procedures for Supervised Visitation and Exchange Centers	
a)	Safety considerations should be paramount when the custody of the children is the subject matter of the proceeding or meeting, such as supervised visitation and/or exchange, custody trials, and other similar matters.	
b)	Custody activities should take place in secure locations to ensure the safety of the victims, children and visitation/exchange center staff.	
c)	Visitation/exchange program staff must be trained in the dynamics of domestic violence and protocols for emergencies in the court or court-related space.	
d)	In domestic violence situations, the safer option during supervised visitation and exchange is the use of formal visitation and exchange programs with safety procedures and security protocols.	
e)	Arrival and departure times for custody exchanges and/or visitation should be staggered for perpetrator and victim.	In the Centre County Court of Common Pleas, the custodial parent is instructed to arrive at the Exchange Center first with the children. The non-custodial parent is instructed not to approach the Center until he/she receives a phone call from the Center that the custodial parent has departed.

5. Model Safety Procedures for Supervised Visitation and Exchange Centers (continued)	Notes
f) In counties without formal programs, free-lance supervisors or family members may be used as custody supervisors. Where such individuals are used, courts should establish standards for their training and supervision and they should be evaluated on a semi-annual basis.	
g) Free-lance supervisors should be trained in the dynamics of domestic violence, develop emergency protocols, and have accountability to the court to report incidents.	
h) If trusted and requested by both parties, family members could serve as custody or exchange supervisors. The court should exercise caution, however, in approving such an arrangement because of the likelihood of impartiality and the lack of domestic violence training. If they must be used, supervising family members should be properly trained and sign a document, such as a Third Party Affi davit of Accountability, so they clearly understand that their responsibility is to the court as well as to the children. Procedures should be established to evaluate the effectiveness of family members serving in this role.	
6. Model Safety Procedures Involving Sheriff's Departments and Security Personnel	
 a) The PFA staff should routinely communicate with security or sheriff's departments regarding the security needs for the day's proceedings. This involves the following: coordination of security escorts of victims into and around the courthouse or court-related facilities; coordination of security presence in the area where hearings/proceedings/appointments take place and where contact between victims and perpetrators may occur; and advising victims of courthouse security procedures for domestic violence situations. Sheriff's department contact information should be offered to the victim if additional concerns arise. The sheriff's department can make safety arrangements with victims, such as parking, arrival times and safety escorts to and from the facility. 	At times, the mere presence of a sheriff's deputy or security officer can deter the perpetrator from acting in an inappropriate or threatening manner.



Enhancing Access to the Courts for Victims of Domestic Violence

	Model Procedures for Making Staff Available to Provide Assistance to Victims in Obtaining PFA Orders	Notes
	Provide training for all staff regarding domestic violence and sexual assault issues.	
b)	Provide staff assistance in obtaining Protection from Abuse Orders.	The PFA Act requires that courts provide simplified forms and clerical assistance in English and in Spanish to help with the drafting and filing of a PFA petition by a pro se litigant. 23 Pa. C.S.A. § 6106 (h)(1). Staff should be trained and available to provide this assistance. The instructions should be offered in multiple formats, languages, and accessible for persons with special needs.
c)	Judges should have all information relating to each family to ensure orders do not conflict.	Most county courts try to utilize the one judge—one family process for family court cases, including PFA cases. Two counties (Berks and Philadelphia) have unified family courts, pursuant to Pa. Rules of Civil Procedure. See, Pa. R.C.P. 1931 and Explanatory Comment.
d)	Where applicable, a no-contact order should be issued as a condition of bond.	
e)	Judges should be made aware of past incidents when dealing with abuse cases and should handle all aspects of one case.	The Pennsylvania Superior and Supreme Courts have held that old instances of abuse are relevant and admissible in criminal cases and PFA proceedings. Consider use of Protection From Abuse database (PFAD) in the courtroom to ensure access to prior PFA information.
f)	If possible, the judge should meet with the victim and the perpetrator separately and immediately after a hearing to make sure everyone understands the order. If a judge is not available, court staff should undertake that responsibility.	In the Allegheny County Court of Common Pleas, judges have begun to conduct a colloquy with victims and perpetrators when consent orders are entered. Whether the colloquies are conducted separately or jointly, the model aspect of this procedure is that the information comes personally from the judge, in order to maximize the effect upon the parties.
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Enhancing Access to the Courts for Victims of Domestic Violence (continued)

	Model Procedures Providing for the Presence of a Domestic Violence (DV) Advocate to Assist the Victim Through the Court Process	Notes
a)	After speaking with the victim, the victim/witness representative should send an arraignment memo to the District Attorney expressing concerns that the victim might have regarding bail and its provisions, no-contact orders and any other concerns the victim may have.	It is important to note that this is the job of the victim/witness representative, not a DV advocate. Victim/witness representatives work for the prosecution and do not have privileged communications. DV advocates work for the victim and communications are statutorily privileged or protected from disclosure by the PFA Act, pursuant to 23 Pa. C.S.A. § 6116.
b)	The DV advocate should be properly trained in the relevant law and should accompany the victim to trial or any hearings.	The DV advocate is statutorily authorized to attend PFA proceedings with the victim, pursuant to 23 Pa. C.S.A. § 6111. In criminal proceedings, the victim/witness representative may help or attend.
c) of	DV advocates and attorneys, prosecutors and probation fi cers should coordinate their involvement in DV cases with each other.	DV advocates have the responsibility to support the victim and her/his autonomy, even when she/he chooses not to cooperate with the prosecution. The victim/witness representative supports the victim in the criminal process and encourages the victim to participate in the prosecution. DV advocates cannot violate confidentiality by speaking to the prosecution on the victim's behalf, but can support the victim as she/he makes decisions and navigates the system.
d)	Courts should establish a clinic or other educational forum to advise victims on how to obtain a PFA restraining order and how to fill out the necessary forms. Court staff should be trained to assist victims with special language or disability needs. At minimum, all forms should be provided in multiple languages.	
e)	Victims should be provided with information on shelter care options, court assistance, referral to community services and developing a plan for their safety. This information should be offered by trained personnel in a variety of languages and formats.	Pennsylvania law requires that the courts provide PFA plaintiffs with written and oral referrals, in English and in Spanish, to the local domestic violence program, to legal services, and to the county bar association's lawyer referral services.

Monitoring Perpetrators to Reduce the Rate of Recidivism

Mo	odel Procedures	Notes
a)	Batterers should be subject to regular court supervision and contact, as well as intensive long-term batterers' intervention programs.	In light of the high recidivism rate in domestic violence cases, recent studies have raised questions about whether batterers' counseling is effective. Regular court supervision and contact is considered to be more effective in reducing recidivism rates. The counseling programs with the best results are intensive, long-term batterers' intervention programs, not anger or stress management courses.
b)	Courts may consider giving perpetrators the option of either remaining in jail or being released with electronic monitors which send a signal when a Protection from Abuse Order is violated.	
c)	In criminal cases, courts should monitor perpetrators' compliance with the conditions of their probation and ensure that their probation is promptly revoked for a violation.	
d)	All protection orders should include boldface language warning of the penalties for violation of the order. This should be available in multiple formats and languages.	

Prepared by the Domestic Violence and Sexual Assault Victims Committee of the Pennsylvania Interbranch Commission for Gender, Racial and Ethnic Fairness

Make copies of this form and use on a regular basis to help evaluate and track progress of improvements to courthouse safety.

DATE OF EVALUATION:

Y N ACCOMMODATIONS FOR DOMESTIC VIOLENCE (DV) VICTIMS, WITNESSES AND THEIR CHILDREN Is there a designated courtroom where hearings on petitions for Protection from Abuse (PFA), child custody and other domestic issues are held? Does the court provide a private place for PFA and other DV victims to meet with court or advocate staff for purposes of completing PFA or other paperwork? Is there a designated, separate and secured waiting room for DV victims or other vulnerable persons in domestic cases that is not accessible to DV perpetrators? **ACCOMMODATIONS FOR SEXUAL VIOLENCE (SV)** VICTIMS, WITNESSES AND THEIR CHILDREN Does the court provide a private place for SV victims to meet with court or advocate staff for purposes of completing paperwork? Is there a designated, separate and secured waiting room for SV victims or other vulnerable persons in sexual violence cases that is not accessible to SV perpetrators? Is the waiting room next to courtroom? If there are no separate waiting rooms or courtrooms, are the public waiting rooms routinely searched and continuously monitored by an armed sheriff, bailiff or other guard? Do any trash receptacles allow easy concealment of weapons in waiting rooms or courtrooms? Are directions (floor plans) clearly posted in all public areas? Are public restrooms routinely searched? **COURTROOMS:** DOORS, WINDOWS, OTHER OPENINGS Are all unused doors secured? Are the keys, cards or electronic access codes to all doors strictly controlled? Are there separate entrances into the courtroom for: ☐ Judges? ☐ In-custody defendants? ☐ Domestic violence perpetrators? ☐ Sexual violence perpetrators? ☐ Domestic violence victims? ☐ Sexual violence victims? ☐ Spectators? Are all windows draped to obscure vision (particularly of the bench) from the outside? **COURTROOMS: LIGHTS** Is there emergency lighting? Are lights controlled by key, card, code or electronic access?

	ΥN
COURTROOMS: FURNISHINGS	
Are routine checks made of:	
☐ Alarms? ☐ Emergency Lighting?	
Locks (especially if electronically or remotely controlled)?	
Is the bench protected from access by the parties or the public?	
Are items that could be used as a weapon or projectile,	
secured or out of reach of the DV perpetrator, SV perpetrator or defendant? (i.e. water pitchers, pens)	
COURTROOMS: SECURITY PROCEDURES	
Is there a policy for firearms to be carried into the courtroom by:	
☐ Sheriffs or Bailiffs? ☐ Law Enforcement Officer witnesses?	
☐ Law Enforcement Officer spectators?	
Are sheriffs or bailiffs in uniform?	
Are there procedures for the emergency evacuation from the courtroom of:	
☐ Prisoners/Defendants? ☐ Judges? ☐ Jurors?	
DV victims and their children?	
☐ SV victims, including children?	
MISCELLANEOUS ISSUES	
If a PFA order is issued, is there a provision or procedure	
for the defendant to relinquish all weapons to the sheriff? (23 Pa.C.S.A. §6108(a)(6))	
Does the PFA order prohibit the defendant from acquiring or possessing any weapons during the duration of the order? (23 Pa.C.S.A. §6108 (a)(7))	
Does the court or hearing officer issuing the PFA	
maintain, and have a system of maintaining, the	
confidentiality of the plaintiff's and any minor children's contact information? [(23 Pa. C.S.A. §6112)]	
COURTHOUSE PROCEDURES	
Is there a security procedures manual for the courthouse?	
Are all dates current and correct?	
Are emergency plans current?	
Is responsibility for declaring an emergency plan clearly fixed?	
Is the authority and chain of command in emergency operations clear and accurate?	
Are all emergency plans subject to periodic review and updating?	
Is there a procedure for handling medical emergencies	
involving the general public?	
Is there a designated security officer for the area where DV cases are prosecuted and heard?	
Is there a designated security officer for when SV cases are prosecuted and heard?	
Is there a procedure for routine daily inspection of the area where DV cases are prosecuted and heard?	
Is there a procedure for routine daily inspection of the area where an SV case is being prosecuted and heard?	

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Courthouse Safety Checklist (continued)

	Υ	N		YN
COURTHOUSE LIGHTS			COURTHOUSE ALARMS	
Is the entire perimeter of courthouse lighted?			Do each of the judges' chambers have panic buttons?	
Are lights on all night?			Do the judges' benches have panic buttons?	
Excluding parking areas, describe lighting of the			Where does the alarm system terminate:	
building grounds:			☐ Sheriff's Department? ☐ Local Law Enforcement Office?	
☐ Fully illuminated? ☐ Partially illuminated?			☐ Commercial Control Station?	
☐ Not illuminated?		:		
COURTHOUSE PARKING AREAS			is there an energency power source for all damis.	
Is entry to and exit from parking areas controlled by:			COURTHOUSE ELEVATORS	
☐ Guard? ☐ An electrically operated gate?			Are separate elevators provided for DV victims, SV victims, and their witnesses?	
Other (specify)			<u> </u>	
Please indicate whether there is a reserved parking lot on				
courthouse grounds for:			Are these elevators controlled by key, card, code or electronic access?	
☐ DV victims? ☐ SV victims? ☐ Witnesses to be called on behalf of DV victims?			Are these elevators equipped with:	==
Witnesses to be called on behalf of SV victims?			☐ Alarms? ☐ Telephones? ☐ Closed Circuit Television?	
If there is not reserved parking for DV victims, SV victims,				
and their witnesses, does the court provide an escort for			WEAPONS AND TRAINING	_:_
the petitioners and witnesses to and from their cars?				
Are signs posted in the parking lot and courthouse alerting DV victims, SV victims, and their witnesses to the			Please list which court personnel carry weapons.	
availability of an escort to and from their car?				
If there are neither reserved parking spaces nor escorts				_
available to DV victims, SV victims, and their witnesses,			Are any of the following stored in the courthouse:	
does the court provide nonpublic elevators or restricted corridors from which the courtrooms can be accessed by			☐ Automatic or Semi-Automatic Weapons	
DV victims, SV victims, and their witnesses?			☐ Ammunition	
COURTHOUSE LANDSCAPING			Where are weapons stored in the courthouse?	
Do landscape features provide places for DV				
perpetrators, SV perpetrators or other criminal				
defendants to hide?			COMMUNICATIONS	
Are there items such as bricks, stones, or wooden fence pickets which could be used as			Please identify which communications are available	
weapons, missiles or tools by domestic violence			in the courthouse:	
or sexual violence perpetrators?			☐ Telephone? ☐ Two-Way Radios?	
COURTHOUSE DOORS, WINDOWS,			☐ Public Address System?	
OTHER OPENINGS			Other (specify)	_
Are all unused doors to and within the courthouse			Please identify which radios, transmitters or other electronic communication devices are present in the courthouse:	
permanently locked?	Ш		☐ Unit in security or bailiff's office connecting	
Are windows that could be used for entry protected with:			to sheriff's base station?	
☐ Locking devices? ☐ Metal bars?			☐ Hand-held portables used by sheriffs?	
☐ Mesh? ☐ Intrusion Alarms?	_		☐ Hand-held portables used by security officers?	
Is a key, card, code, or electronic-control system in effect?	Ш		Please indicate if such devices (listed above) connect with the following:	
Are building entrance keys, cards, or codes issued on a limited basis?			□ Local police? □ State police?	
Are master keys, cards or list of codes securely locked		\vdash	☐ Other sheriff's departments?	
and issued on a strictly controlled basis?			Other (specify)	
Is the number of entrance doors in use reduced to the			Please explain the way in which such devices	
minimum necessary?	Ш		interconnect with such individuals/offices.	
				_
			Does your courthouse have an auxiliary power source?	
			Is there a duress code signal?	