

KING COUNTY PROSECUTING ATTORNEY'S OFFICE



DANIEL T. SATTERBERG
PROSECUTING ATTORNEY

JUSTICE
COMPASSION
PROFESSIONALISM
INTEGRITY
LEADERSHIP

8 May 2020

Sen. Manka Dhingra
Washington State Senate

Re: Electronic service of civil court orders

Dear Senator Dhingra,

I am writing in support of maintaining remote protection order access and service in Washington to provide needed relief to victims of domestic violence, sexual assault, and stalking. As the COVID 19 pandemic unfolds in our region, courts, jails, law enforcement and other system actors have had to significantly alter practices to accommodate and promote public health. The problems of domestic violence have been exacerbated by COVID-19.¹ Felony domestic violence in King County is up 20% in new cases filed. Seattle police and other agencies are reporting stark increases in domestic violence calls for service and arrest. Over the last two weeks in King County there have been three domestic violence homicides, a very public domestic violence attempted murder, and two officer involved shootings of domestic violence offenders. Even before COVID-19 there was an epidemic of domestic violence in Washington State. Every year 50,000 domestic violence police incident reports lead to 35,000 criminal domestic violence prosecutions. Studies repeatedly find homicide, rampant criminal recidivism, and the highest risk of violent crime in domestic violence offenders.² The legislature's risk assessment studies have found domestic violence to be the greatest criminal predictor of violent recidivism, not just of domestic violence, but all violent crime.³ This was a key basis for several recent laws to promote research, treatment and sentencing in domestic violence.

In response to the pandemic the Supreme Court and Governor acted swiftly and decisively to address criminal operations as well as address emergency civil matters, including Domestic Violence, Sexual Assault, Stalking and Extreme Risk Protection

¹ <https://www.kiro7.com/news/local/stay-at-home-order-leads-domestic-violence-spike/E24P7G23W5EH5FF7XK2LZ3MKEY/>;

“Police, prosecutors, and victim advocates worry coronavirus stay at home order will cause spike in domestic violence” Seattle Times, April 7, 2020.

² Id. Drake, E., Harmon, L., & Miller, M. (2013). *See also* Barnoski, R, and Drake, E .(2007). *Washington's Offender Accountability Act: Department of Corrections' Static Risk Assessment.*

³ Hamilton, Z, Barnoski, B (2015). *Designed to Fit: The Development and Validation of the STRONG-R Recidivism Risk Assessment*, Criminal Justice and Behavior

Orders. It has long been recognized that civil protection orders are a key part of what works to reduce domestic violence and violent crime in a community—especially critical during this pandemic. Public health research by the University of Washington⁴ and others has consistently found civil protection orders reduce domestic violence⁵—this is why my office shifted staff and resources to our Protection Order Advocacy Program to support the difficult transition from in person to remote civil protection order access for victims during COVID-19.⁶

Courts across the state are actively altering operations to accommodate telephonic and electronic filing of civil protection orders. One critical aspect of this process is how these emergency orders are to be served on those who are restrained by them. The relevant statute currently requires personal service of all pleadings and orders, except for service by mail or by publication under specific and very limited conditions, with prior court permission.

Personal service is a challenging means of service under the best of circumstances, due to manpower and safety issues. It is simply not viable in the face of a pandemic and runs counter to both public health and the Governor’s “stay at home” order. Electronic means of service – by email or text message, or through social media applications – are readily available to law enforcement personnel and restrained parties alike. Electronic communications are instantaneous, inexpensive, and simple to document and preserve. These tools should be maintained, and serve as a cutting edge example of combining technology and professional police response (note, this practice has been widely hailed nationally by the American Bar Association, Center for Court Innovation, and Association of Prosecuting Attorneys as a silver lining from the pandemic (see webinar links [here](#) and [here](#)).

Personal service by law enforcement must remain a requirement when the restrained person has been ordered to surrender weapons, or when a respondent needs to be vacated from a shared residence, for obvious safety reasons. But personal service for other civil protection orders, during the current pandemic, is an unnecessary risk, and potentially dangerous to all involved.

While the relevant statutes allow for exceptions to personal service by allowing service by mail and by publication, service by mail requires a petitioner to physically go to a post office (also contrary to Governor Inslee’s “stay at home order”) and interact with another person to pay for and initiate a certified mailing. Service by publication is costly and time-consuming and is the least effective method of proving that a respondent had

⁴ Kernic, Mary A., Impact of Legal Representation on Child Custody Decisions among Families with a History of Intimate Partner Violence Study, USDOJ Report No. 24888 (May, 2015).

⁵ M. Kernic, Civil Protection Orders and Risk of Subsequent Police-Reported Violence, JAMA 2002, 288(5): 589-594; Kentucky Civil Protective Order Study: A Rural and Urban Multiple Perspective Study of Protective Order Violation Consequences, Responses, & Costs National Institute of Justice No 228350, 2009). See also “Police, prosecutors, and victim advocates worry coronavirus stay at home order will cause spike in domestic violence” Seattle Times, April 7, 2020.

⁶ See <https://www.kuow.org/stories/with-courthouse-closed-king-county-unveils-e-filing-for-dv-victims>; See KIRO TV coverage of spike in domestic violence and remote protection order system: <https://www.kiro7.com/video/?id=4891127>

prior knowledge of an order for enforcement purposes. That is why police and prosecutors have provided guidance statewide on electronic service of orders as an effective and important step in domestic violence response. See guidance [here](#).

Given the very real increase in domestic violence we are now experiencing, we need to preserve access to our courts, and the relief of civil orders, for victims. I am happy to make myself available for any questions or concerns.

Sincerely,

A handwritten signature in black ink, appearing to read "David Martin", written over a horizontal line.

David Martin
Senior Deputy Prosecuting Attorney
Unit Chair, Domestic Violence Unit