

MAPPING A PATHWAY TO SAFETY

A Community Safety Assessment of the City and County of Honolulu Protective Order Process

June 2016

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FOREWORD

R. Mark Browning - Senior Family Court Judge, First Circuit Court

Violence against women and children is an issue that threatens the very core of whom we are as a community. Simply stating that such violence is unacceptable is not enough unless, we as a society, match our words with action that brings about changes within institutions and our community; actions that improves the safety and the well-being of victims of domestic violence.

Our state has promulgated many laws that protect women and children. Systems have been created within the Judiciary and other institutions that provide for processes that created systems of safety. But to simply rest on this progress without examination and without a sense of accountability leads to complacency at best. During my tenure as the Senior Judge of the Family Court of the First Circuit I have made it clear to all within our court that we can always do more – that we can do better.

Certainly this is true with the temporary restraining order process that exists within our judiciary. To be better we must listen to those who work within the institutions who are involved directly or indirectly in the TRO process and most importantly we must listen to people we serve. We must not be afraid to be responsive and to listen. We must be willing to always find ways to improve for the benefit of those we serve.

It is for these reasons that the Judiciary embraced the Community Assessment Project with respect to our TRO process. And I am deeply grateful to all those who contributed and participated in the project. The cooperation of Honolulu Police Department, the Family Court (judges, bailiffs, and TRO unit), Department of Human Services, Department of Public Safety, Domestic Violence Action Center, and Ala Kuola were instrumental in the completion of this project. I would like to especially acknowledge and thank all of the individuals who have applied for TROs who acted collectively as focus groups and provided valuable information regarding their own personal experiences. And I would be remiss in not thanking Tony Wong and Maureen Kiehm for their leadership throughout the Community Safety Assessment process.

Suffice to say that the process of conducting the Community Safety Assessment while uncovering issues within the TRO process has already produced significant and positive change. For example petitioners can now submit their petitions on the same day and a child welfare screening assessment that petitioners were asked to complete is no longer being used. And there is now a commitment to move the recommendations from the Community Safety Assessment forward to improve the safety of victims of domestic violence. The process of completing this important report has increased our awareness of the various issues and obstacles that victims face and has promoted important dialogue.

In the end we all know that there is always more work to do and more ways to improve. For our community it is important for all systems, organizations and groups to continue to work together and share in the responsibility of protecting victims of domestic violence.

EXECUTIVE SUMMARY

The Honolulu Community Safety Assessment (CSA) Project is a **problem-solving process** for determining a more effective intervention in domestic violence cases with the goals of enhancing safety of families and communities, while ensuring accountability when intervening in cases involving intimate partner violence (IPV). The project uses the nationally recognized model developed by Praxis International, and is based on the **premise** that workers are institutionally organized to do their jobs in particular ways – they are guided by the forms, policies, philosophy, and routine work practices of their respective institution. The CSA is designed to allow an interagency assessment team to work with a multidisciplinary body of public and DV advocacy organizations, to identify how problems are produced in the structure of case processing and management. Our process focused on the critical Assessment Question: ***How does our Temporary Restraining Order/Protection Order application and issuance process allow us to keep victims safe, and thereby hold offenders accountable?***

The First Circuit Family Court process for obtaining a Temporary Restraining Order (TRO) and Protection Order (PO) follows a straightforward process, but may become complex, given the number of actors involved and the options provided to the petitioners at each phase. A background on the information on the TRO process and an understanding of these procedural steps play critical factors in having protection orders granted. Each chapter in this report provides an overview of the legal process, the steps involved, and the different court, legal, social agency and advocacy personnel who play a role at that point. The Assessment Team, that gathered the information for this report, offers a “snapshot” view of activities at various phases based on observations, interviews and analysis of the organization’s records and written policies and procedures in place at that particular moment. Several issues that were identified during the assessment were addressed before the CSA was completed. This speaks well of the organizations that took the proactive steps to address barriers to victims as soon as they were identified.

The Strengths, Areas That Need Improvement, and Recommendations Sections of this report identify what works well in the system, what may need to be changed to improve victim safety, and what possible action steps could be taken by the committee. A description of the agencies involved in the TRO/PO process is provided in Appendix D,

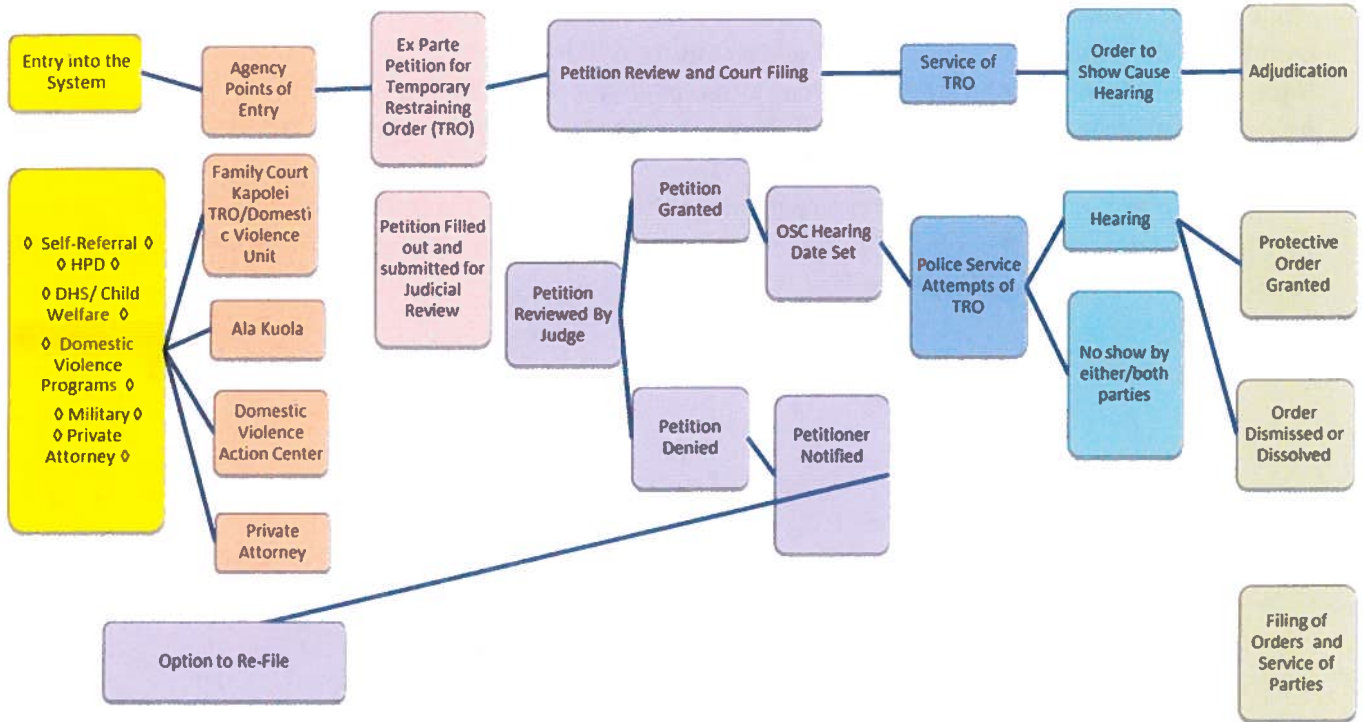
The CSA report concurrently offers a victim overview in “*Nalani’s Story*”, at the start of each chapter, highlighting issues in the personal safety process that may be occurring alongside of the legal process. Many of the system’s expectations and actions have a reasonable purpose to assist victims. However, given the totality of these expectations and actions in a short period of time, these could quickly overwhelm an abused individual struggling to meet the multiple roles of parent, homemaker, employee and cooperative citizen.

The project gratefully acknowledges the participation and assistance of the agencies and personnel (in Appendix B) who contributed their time and knowledge over the past year. In particular, we want to recognize Senior Family Court Judge Mark Browning for his willingness

and assistance in having this assessment project examine the TRO/PO process within the First Circuit Family Court. This has resulted in positive interagency dialogue and procedural clarifications that better ensure the safety of victims of domestic violence.

CHAPTER 1: Foundations

Restraining Order Legal Process



This Community Assessment Report provides a description of a legal process for petitioners to obtain a protection order, but we must remember that such a petitioner is real person facing an array of challenges as she/he is drawn into through public forms of intervention. We hope to show the complexities of the legal and social system processing, at the same time that victim is attempting to address the realities of her/his everyday life, and those of any child that may also be present.

Our "story" describes the victim, "Nalani", as she enters into each stage of the TRO/PO process while simultaneously dealing her role as parent, worker, and survivor in our community. The competing demands of the many roles often require making choices that are less than ideal, but necessary, given her limited resources and lack of outside help. The final story panel on page 33 illustrates the culmination of all the concerns and demand that could face a victim.

Through our understanding of the overwhelming situation she is placed in, we hope to demonstrate the need for a more victim-centered approach to providing improved responses to victims of domestic violence.



CHAPTER 1: Foundations

Purpose:

The Honolulu Community Safety Assessment (CSA) process is a **problem-solving process** for determining a more effective intervention in domestic violence cases. The process involves an interdisciplinary body of public and DV advocacy organizations, with the goals of enhancing safety of families and communities, while ensuring accountability when intervening in cases involving intimate partner violence (IPV).

The **premise** for the CSA process is that workers are institutionally organized to do their jobs in particular ways – they are guided by the forms, policies, philosophy, and routine work practices of their respective institution. When these work practices routinely fail to adequately address the needs of people, it is rarely because of the failure of individual practitioners; the problem is with how their work is organized and coordinated. The CSA is designed to allow a locally-based interagency assessment team to identify how problems are produced in the structure of case processing and management.

The CSA is built on a foundation of understanding:

- 1) Institutional case processing, or how a victim of domestic abuse becomes “a case” of domestic violence;
- 2) How response to that case is organized and coordinated within and across interveners; and,
- 3) The complexity of risk and safety for each victim of domestic abuse.

To learn about victims’ experiences and institutional responses, a CSA Assessment Team conducts interviews, including victim/survivor focus groups; observes practitioners in their real-time-and-place work settings; and, reads and analyzes forms, reports, case files, and other documents that organize case processing. Over a series of debriefing sessions, the team organizes the information gathered, identifies area for improvement, and recommends changes to improve domestic violence interventions.

This is clearly not intended to be a research project, comparing pre- and post-data or applying a systematic sampling. The Safety Assessment focuses on institutional processes rather than individual workers. Interviews, observations, and document reviews provide a sample of the work process at different points. This allows the Assessment Team to discover problems in the structure of case processing and management. Interviews and observations are conducted with practitioners who are skilled and well-versed in their jobs. Their knowledge of the institutional response in everyday practice and their first-hand experience with the people whose cases are being processed supply many of the critical observations and insights of the Assessment. This effort is captured as a “snapshot” from a specific period of time (January–May 2015).

The “snapshot” provides an opportunity to review and discuss the manner in which the case was processed at that particular moment, and from which the need for system changes may be

identified. By asking how something comes about, rather than looking at the individual in the job, a CSA discovers systemic problems and produces recommendations for longer lasting change. The CSA is designed to leave communities with new skills and perspectives that can be applied in an ongoing review of its coordinated community response. A more detailed description of the CSA process can be found in Appendix A.

Assessment Question:

The **focus** of the CSA process was determined by community input (including victim feedback) as to how particular institutional responses may marginalize victim safety during the case processing routines within the City and County of Honolulu. To be realistically implemented, one specific question had been posed, and did not necessarily involve the complete array of system responders. The assessment question that drove this CSA process was:

How does our Temporary Restraining Order/Protection Order application and issuance process allow us to keep victims safe, and thereby hold offenders accountable?

This assessment addresses victims who are in *intimate partner violence (IPV) relationships*, although there are many other situations that may address the vast aspects of domestic violence.

Background:

Community stakeholders in Honolulu expressed an interest in conducting some type of system audit/assessment for a number of decades, relating to the organizational response to victims of domestic violence. Through its experiences from training opportunities and presentations locally, nationally and on webinars, the project planning team chose to work with Praxis International, a national victim advocacy training and consultant organization based in Duluth and in St. Paul, Minnesota. Best known for its work on community safety audits and the model “Blueprint for Safety”, Praxis was contracted to provide the training and site consultation for the Assessment Team and CSA Project in 2014. The planning team of Maureen Kiehm (Program Specialist, Judiciary First Circuit Court), Marci Lopes (Executive Director, Hawaii State Coalition Against Domestic Violence, hereafter referred to as HSCADV) and Tony Wong (Family Violence consultant) attended a weeklong orientation course on the Safety Assessment process in April 2014 in St. Paul. Consultants Olga Trujillo and Casey McGee then spend several days in Honolulu in November 2014, to discuss a locally based assessment process with the planning committee and to train the assessment team members.

The Honolulu CSA Project was supported by the Hawaii State Judiciary, First Circuit through a Violence Against Women Act (VAWA) grant under the Hawaii Department of the Attorney General, and by the Judiciary’s Spouse and Child Abuse Special Account (FY 2016). Tony Wong was contracted as the Project Coordinator. The structure of the CSA process was established as a two-tier body. The CSA Planning Committee involved participation by administrative level personnel from the community response system’s public and victim service provider agencies. The Assessment Team was comprised of organizational practitioners identified by their agencies to work with the Project Coordinator in the examination of the forms, policies,

philosophies, and routine work practices of the institution(s) as selected in the Assessment Question. Rosters of both the members of the Planning Committee and the Assessment Team are attached as Appendix B.

Methodology:

The **process** involved examining how institutional policies and practices affected the safety of domestic violence victims, as well as enforced perpetrator accountability. While the Team noted specific personnel activities, it did not assess individual effectiveness or actions. The CSA process included mapping the system, interviewing and observing workers, and analyzing forms, reports and other text generated in the handling of these cases. In all, there were over 35 team and individual observations, interviews and text reviews made by the Assessment Team from January to May 2015.

Organizational participation generally involved the practitioners from agencies that had a part in the case processing under review. Planning Committee membership consideration centered on the logical inclusion of agencies critical in the processing of the TRO/PO action, and on presenting a comprehensive overview of that particular process. CSA Planning Committee members were asked to be in an interagency cooperative mode, and have an openness to identify and address problems without creating or deepening interagency conflict. The Assessment Team members, who were to have access to sensitive information, signed a **confidentiality agreement** that indicated their understanding that the CSA information gathered was to be used only in reference to this specific effort. Special attention was made to include victim/survivor input through three survivor focus groups, a separate focus group comprised of domestic violence advocates, and the inclusion of a survivor on the Assessment Team as her schedule permitted.

Format of this Report:

This report is presented to follow the legal process that a petitioner would take to obtain a TRO in the First Circuit Family Court. Each chapter describes the general process that can be expected in the Inquiry and Referral (Chapter 2), the Application and Filing (Chapter 3), the Petition Review, Disposition and Service of Granted TROs (Chapter 4), and the Order to Show Cause Hearing, Disposition and PO Service (Chapter 5). A Summary of Findings by the CSA Team provides the specific “snapshot” of personnel observations and text analyses, and includes updates and changes that occurred following the Team observations and findings. A section that identifies Strengths, Areas that Need Improvement, and Recommendations for that particular process concludes each chapter.

A note on the Section Summaries: The specifically noted actions of personnel *should not be construed* to reflect generally accepted organizational practices and policies, as this may not necessarily be the case. Instead, it might provide an insight to a system dysfunction at that one time, and generates the discussion on potential issues that may need to be addressed.

Chapter 6 provides a brief summary of each chapter, with a replication of the sections on Strengths, Areas that Need Improvement, and Recommendations. Several issues identified as

critical to victim safety, but not directly involved in the TRO/PO judicial process are noted as “Sidebar Issues” only in this chapter.

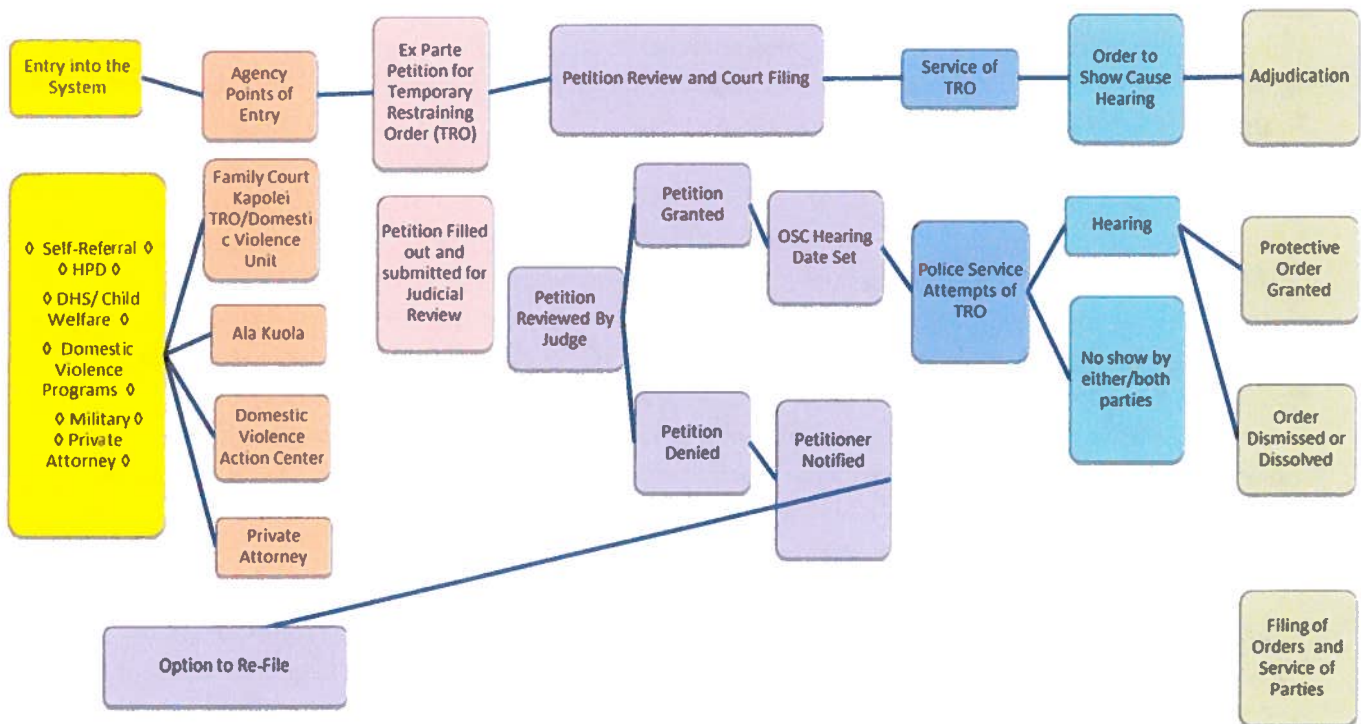
Concurrently, the start of each chapter provides a victim perspective (Nalani’s Story) as she/he approaches the TRO process, filled by concerns that may or may not be a direct part of the attempt to obtain the protection order. It reflects the safety concerns that a victim faces for herself and her children, and identifies the critical factors that affect her ability to obtain the legal protection she seeks.

The Appendices provide information as follows: Praxis International Community Safety Assessment Model (Appendix A), CSA Planning Committee and Assessment Team membership (Appendix B), HRS 586 – Orders for Protection (Appendix C), Agency Descriptions (Appendix D), and a Glossary of Acronyms and Terms (Appendix E).

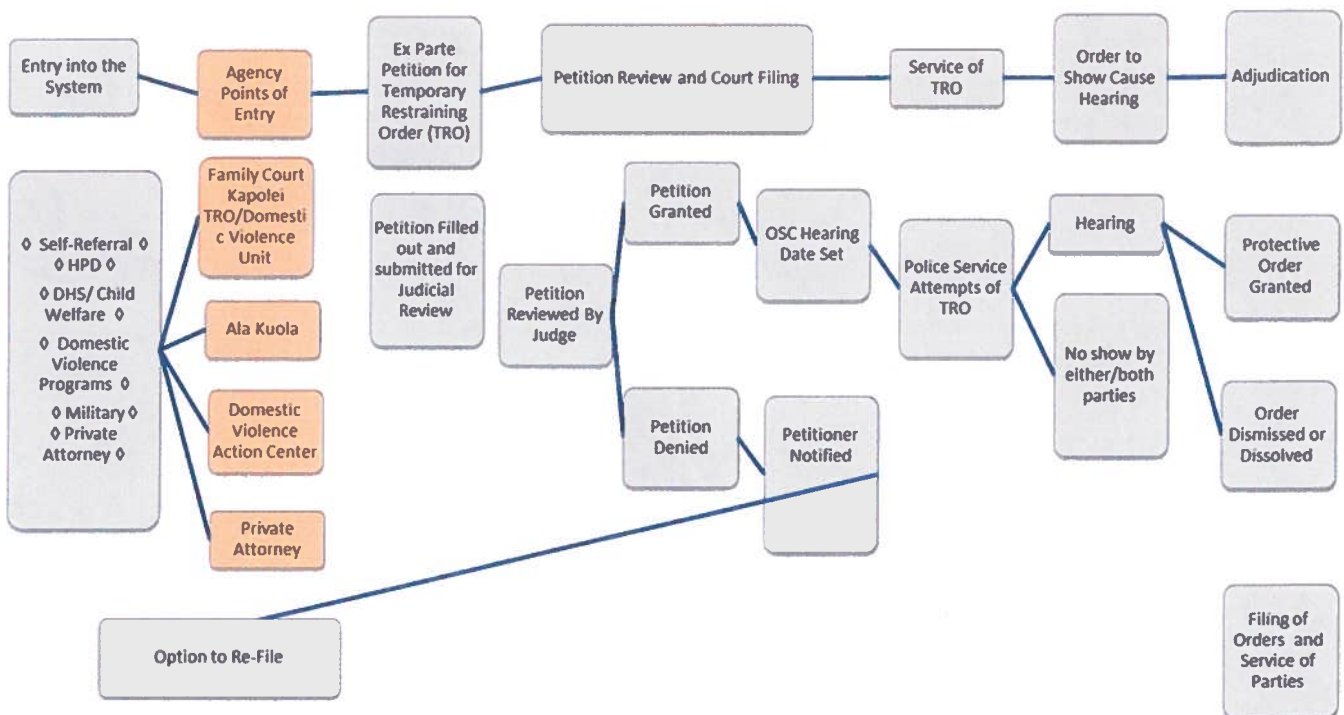
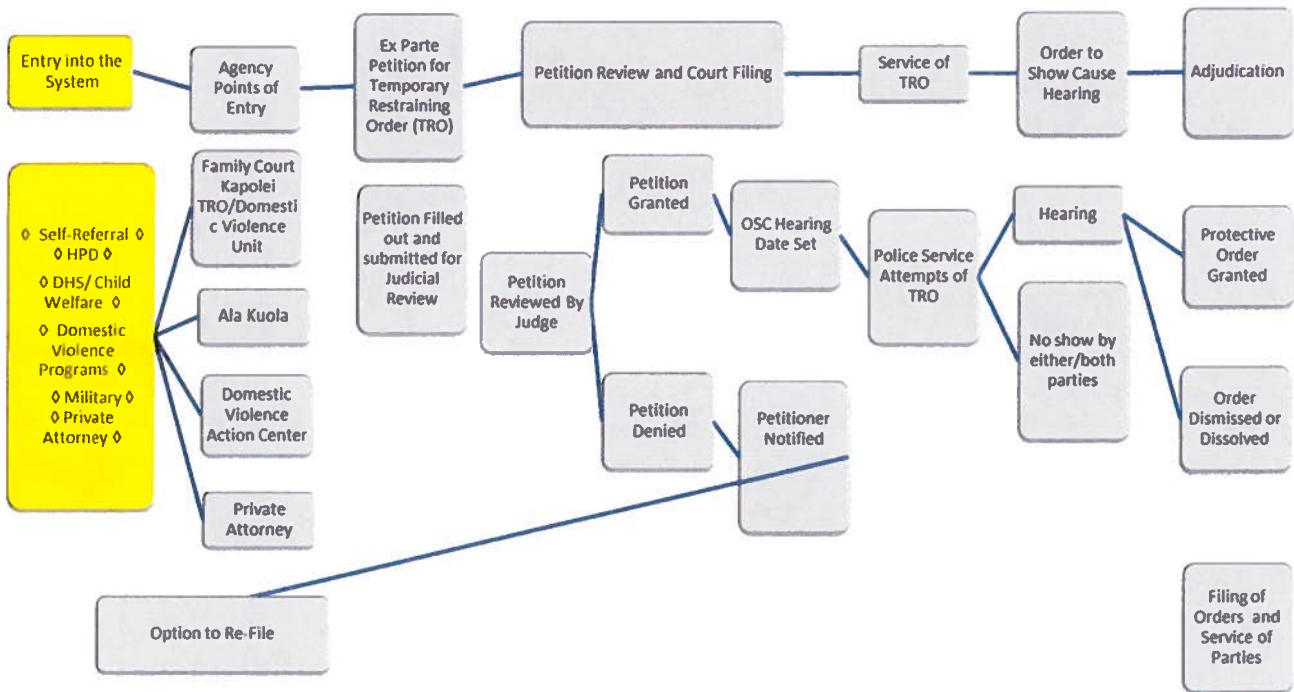
The TRO process (brief overview of the legal process):

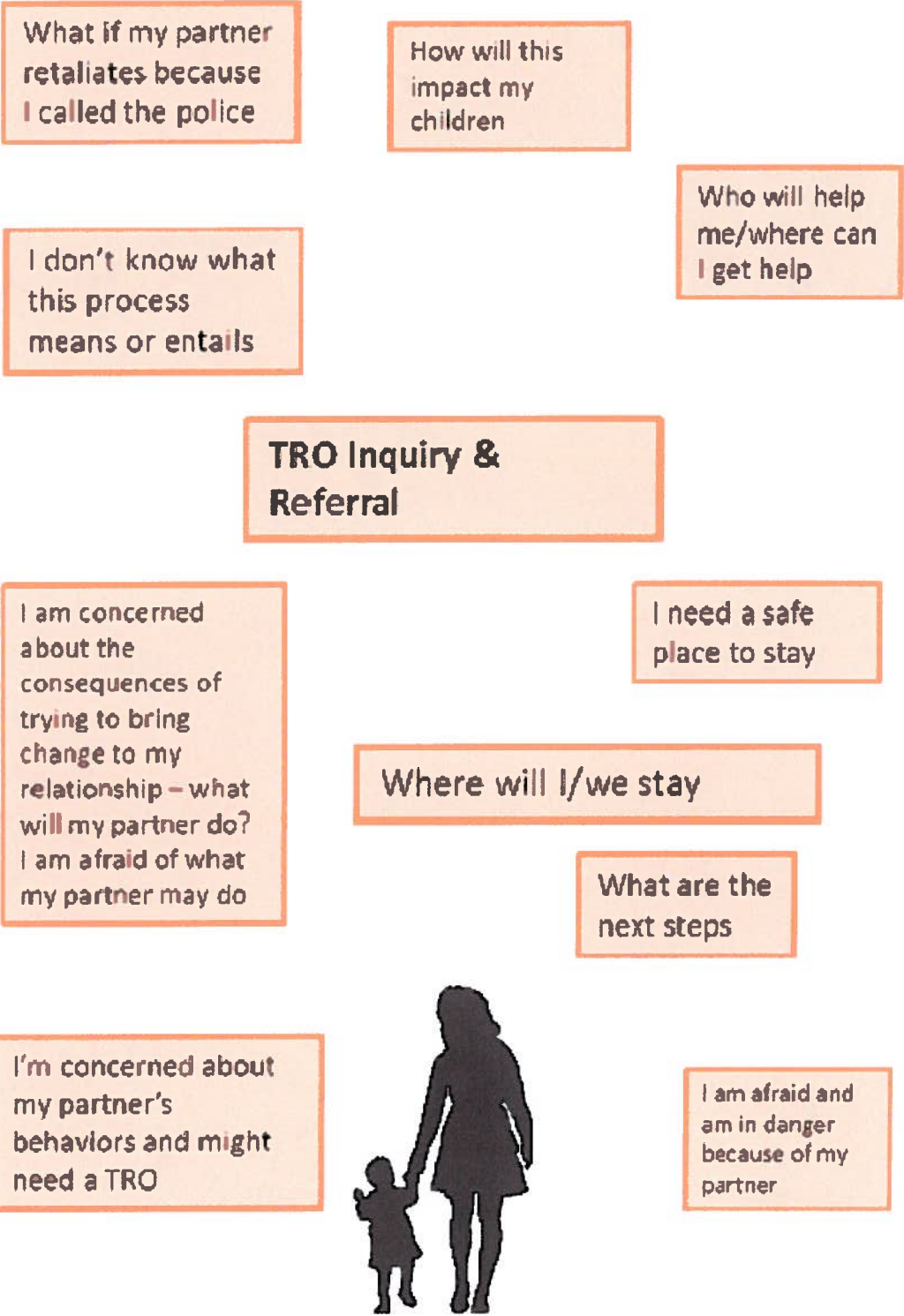
As part of the Assessment Team’s effort to “map out” the system, a basic schematic flow chart of the TRO/PO process in the First Circuit Court was developed. See Figure 1 below. Each Chapter title page highlights the particular section(s) being presented.

FIGURE 1:



CHAPTER 2: TRO Inquiry and Referral





CHAPTER 2: TRO Inquiry and Referral

Under Hawaii Revised Statutes (HRS), Chapter 586, individuals may seek relief from abusive behavior or imminent danger by partners or household members through restraining and protection orders:

§586-3 Order for protection. (a) *There shall exist an action known as a petition for an order for protection in cases of domestic abuse.*

(b) *A petition for relief under this chapter may be made by:*

(1) *Any family or household member on the member's own behalf or on behalf of a family or household member who is a minor or who is an incapacitated person as defined in section 560:5-102 or who is physically unable to go to the appropriate place to complete or file the petition; or*

(2) *Any state agency on behalf of a person who is a minor or who is an incapacitated person as defined in section 560:5-102 or a person who is physically unable to go to the appropriate place to complete or file the petition on behalf of that person.*

(c) *A petition for relief shall be in writing upon forms provided by the court and shall allege, under penalty of perjury, that: a past act or acts of abuse may have occurred; threats of abuse make it probable that acts of abuse may be imminent; or extreme psychological abuse or malicious property damage is imminent; and be accompanied by an affidavit made under oath or a statement made under penalty of perjury stating the specific facts and circumstances from which relief is sought.*

A more extensive citation of the HRS 586 statute may be found in Appendix C.

A Family Court TRO petition may be filed by a petitioner/complainant alleging harm or the threat of harm by a respondent within the following types of relationship. The petitioner/complainant and respondent:

- are married or were married to one another
- are blood-related family member
- live or had lived together
- have a child together
- are or were in a dating relationship with one another

The focus of this report is on intimate partner violence (IPV) relationships. Though it is not covered in this report, a District Court temporary *injunction* may be requested by a petitioner/complainant if the person that is harassing or abusive:

- is not someone to whom the petitioner/complainant is married or was married to
- is not a relative
- has never lived with the petitioner
- is not someone with whom the petitioner/complainant had a child
- is not a dating partner

Police may be called to respond to incidents of violence, at which time they will do an assessment of the situation. Victims are interviewed by responding HPD Officers, who may recommend that they file for a TRO, as one of several options to the situation. Other law enforcement options include: arrest of perpetrator or both parties if investigation determines criminal action has occurred and to prevent additional violence, referral of victim to advocacy services (usually through a domestic violence resource card) and recommendation for shelter services. Officers are required to complete an incident report, even if no further action is deemed necessary. HPD has a website that provides information on the protection order process and resources in the community, and can be found at <http://honolulu.hpd.org/information/index.php?page=dv>.

A victim may also seek assistance directly from a domestic violence service provider or private attorney for assistance in filing a TRO, or could go directly to the Family Court to file a TRO application at either the First Circuit Court (hereafter referred to as the Circuit Court in Honolulu) on Mondays, Wednesdays, and Fridays, or to the Ronald T.Y. Moon Kapolei Courthouse (hereafter referred to as the Kapolei Court) on weekdays. On-line TRO information and downloadable forms are available at: www.courts.state.hi.us.

Summary of CSA Team Reports:

Several of the victims interviewed cited that information on the TRO/PO process was provided by a relative or friend, and not by a victim advocate or law enforcement officer. This contributed to their confusion in filing for TROs as the information was not always accurate. None of those interviewed searched on-line for information that is available on the HPD or Judiciary website, nor did they indicate an awareness of these resources.

As responding to the crime scene is their first priority, there may be no specific explanation on the part of law enforcement officers to victims on the purpose of a TRO, the protections it may provide, and its limitations. Most victims identified in domestic violence situations stated that responding HPD officers did provide court location and timeframe for application of the TRO, and gave out informational cards on community resources available for domestic violence victims. In the focus groups, victims noted that some of the officers did not seem to have extensive training and knowledge of TROs and domestic violence dynamics. Several victims also cited a subtle negative change in response by a particular officer to a victim after repeated calls to law enforcement for domestic violence-related incidents.

While many victims have experienced interactions with law enforcement that were appropriate and helpful, there is a wide continuum of responses reported via the victim focus groups. Concerns by victims concentrated mostly on safety issues, including the non-arrest of the perpetrator, and the need to have objective and appropriate information and the right to file a police report for any incident involving intimate partner violence. Perpetrators who are aware of the unclear situation will often use it to their advantage as a further abuse tactic.

The presence of an advocate at the scene to provide support and information on the TRO and safety planning was deemed as a major plus by the interviewed victims. Those who were

engaged early in the TRO process with DV advocates were noted to be the most successful in obtaining protection orders and conditions that ensured their continued safety. However, it was more difficult for victims to contact DV advocacy agencies if the victim left the home, especially without most possessions, including a cell phone.

Strengths:

1. HRS statutes relating to domestic violence and IPV.
2. HPD Policy for responding to DV, including mandatory arrest and the distribution of DV Help Cards.
3. HPD website information on seeking protection orders for domestic violence.
4. Judiciary website information on TRO filing process and locations, and downloading of forms.
5. Availability of 24-hour DV advocacy services, including shelter & crisis counseling hotlines.

Areas That Need Improvement:

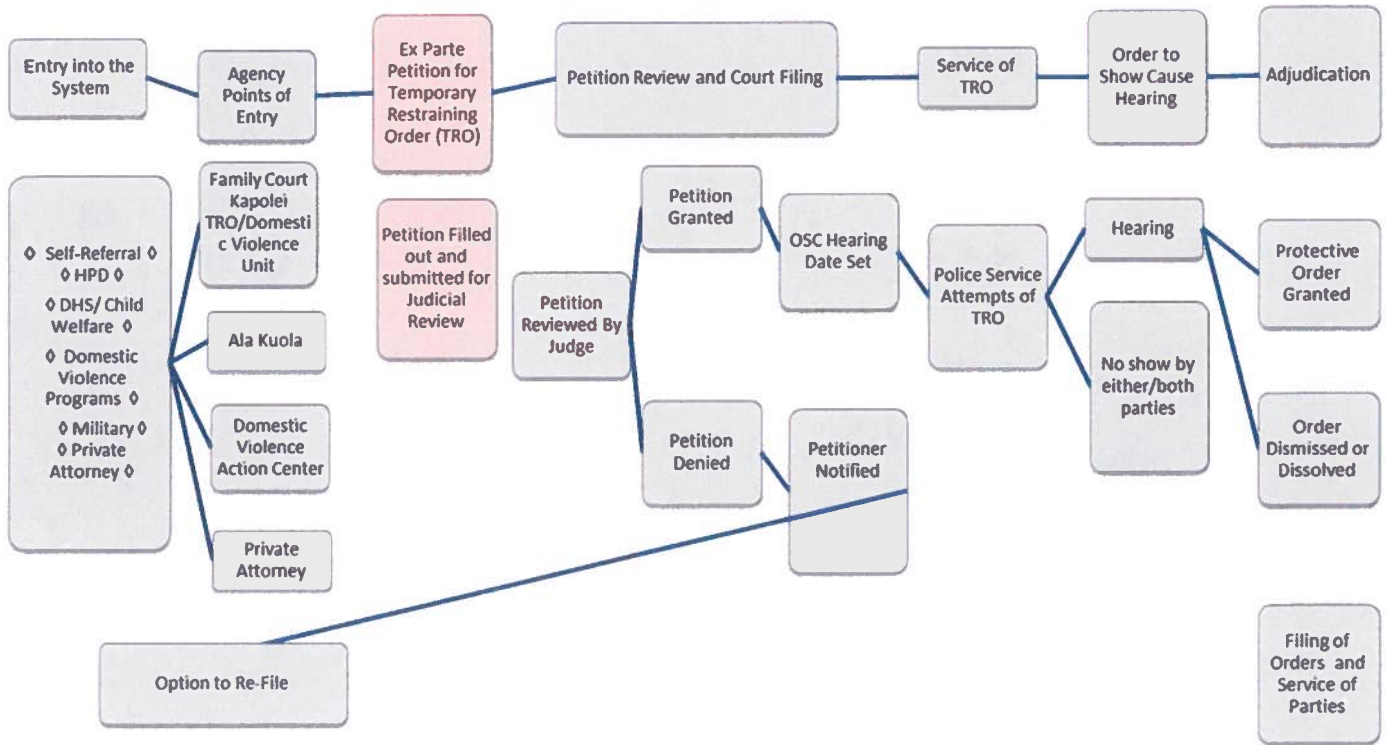
1. Widespread publicity and distribution of (public) information regarding victim safety options to address intimate partner violence.
2. Victim-centered, trauma-informed responses by first responders, as a victim may not be aware of right to obtain protection, may be traumatized, and often is unfamiliar in the TRO petition process.
3. Shortage of comprehensive and consistent services/resources that enable victim/children to leave safely.

Recommendations:

1. Increase the presence of DV advocate on scene or immediately following incident, to assist victim/children in services, including transition (such as a Domestic Abuse Response Team/Domestic Violence Response Team - DART/DVRT).
2. Provide training for First Responders that:
 - i. Will increase understanding of DV dynamics that include:
 - Ability to identify the primary aggressor and the victim in the context of the DV relationship, as opposed to relating only to the emergency situation (*HPD is working with HSCADV to implement a Lethality Assessment Program on Oahu that will feature a training video for officers responding to DV calls in 2016*)
 - ii. Will effectively convey information and options provided to victims in addition to TRO, to include:
 - Stay-away orders against perpetrator
 - Report/arrest of perpetrator
 - iii. Will improve the current Referral/ HELP cards
 - Ensure agencies/numbers are updated regularly
 - Create separate TRO Help Card for first responders

- iv. Will elevate and increase recognize the impact of Vicarious Trauma on first responders
- 3. Provide ready accessibility to services and assistance in on-scene preparation for safety when the victim is leaving, to include:
 - Transportation
 - Personal effects, such as: family documents for identification, financial accessibility, eligibility for services, cell phone, money, and pets

CHAPTER 3: Applying for and Filing of TRO Petition



How will I get time off from work

What language accessibility do I have if I do not speak or read in English

How will I get there – transportation

Filing the TRO Petition

How safe am I if my partner arrives to file a TRO too



I feel isolated – I'm not allowed to bring anyone in the room with me to file my petition

CHAPTER 3: Applying for and Filing of TRO Petition

Potential petitioners are told by police or advocates to arrive at the either Kapolei Court or the Circuit Court in Honolulu when it opens at 7:45 AM. The entrance remains closed until then, and all individuals entering either court building must go through a security screening that includes a metal detection portal and search of hand carried items and bags. There is generally a crowd standing around the front doors prior to the opening, and a queue that lasts for a short period of time as the public is allowed to enter. Sheriffs are situated at the entrance and on the Third Floor of the Kapolei Court, and the court bailiffs provide screening and direction at their central station on this floor.

Petitioners may access the court system through the 24-hour TRO Information Hotline, where information and appointments are provided during normal business hours, and a recorded informational message is presented during non-business hours. Petition forms may also be downloaded at the Judiciary website before the petitioner appears at the court. Either Ala Kuola, Domestic Violence Action Center (DVAC), or private legal counsel may also be contacted prior to this time to assist in filing these forms.

A majority of petitioners used the Kapolei Courthouse, Third Floor to file applications for TROs with the TRO Domestic Violence Unit (TRO Unit), Adult Client Services Branch (ACSB). At the Kapolei Court, petitioners may go directly to the ACSB office window to file the petition application. The TRO Unit Court Officers or the ACSB window provide the forms and direct applicants into a separate room to complete the forms. The court officers assist applicants by providing general guidance and directions with court forms, but cannot tell them what to specifically include on the forms, so as not to provide legal advice. The court officers do not advise petitioners on a course of action or what may be “good cause” to include in the application. Petitions are reviewed for completeness of petitioner data, and names cross-referenced in CJIS-HAWAII and HAJIS for other court related action, then forwarded for judicial review. Forms that are completed and submitted that day will be reviewed for judicial action by that afternoon. The complete TRO process from application to court orders is complex, and could involve up to a full day, with a number of different court personnel working at different stages of the process. The number of petitions handled by the TRO Unit varies daily, but the total number of petitions filed from January to September 2015 totaled 2101, of which 548 were denied. For the previous fiscal years, the approximate number of filings/IPV filings were as follows: FY 2012 had 2909 filings, of which 2473 were for IPV cases; FY 2013 had 2985, with 2537 IPV cases; and FY 2014 had 2882, with 2450 IPV cases.

Petitioners may be accompanied by a lawyer or advocate during the application process. They may also file petitions through Ala Kuola or private counsel. For victims assessed by DVAC for intimate partner violence, the DVAC Ex Parte Outreach (ExPO) Program is available on site for advocacy services and support for court proceedings. Once the petition is submitted to the TRO Unit, victims are asked to return that same afternoon to find out the result of their request for a TRO, and to pick up their court documents whether the TRO is granted or denied.

Interpreter services and accessibility accommodations will be provided if applicant requests such assistance or there is a court determination of such need. Court policy mandates such services and for its personnel to apply the policy as stated.

Summary of CSA Team Reports:

Safety and security for victims were frequently highlighted in victim interviews as the top concerns when they went to the Kapolei Court to apply for a TRO. All parties waited outside of the entrance until 7:45 AM, at which point they queued through a metal detection portal before proceeding to the Third Floor. There was no visible security outside of the building and in the court's parking area. Upon exiting the courthouse, victims stated that they were fearful of contact with perpetrators and/or their family or friends.

Many victims were unaware of the Circuit Court in Honolulu as an optional site to file applications, nor were they aware of the ability to download the TRO fillable form prior to going to the TRO Unit. Only a few victims knew about TRO preparation services provided by Ala Kuola. Victims felt that they would have benefited from assistance if they had engaged with Ala Kuola, the ExPO program or other advocacy services when writing their petition applications.

TRO court officers were present in the conference room set aside for petitioners to complete their applications, but the CSA Team did not observe a TRO informational orientation on the process. Generally petitioners were observed during this time not being allowed to be accompanied by anyone into the TRO conference room when preparing the application, and this was problematic if there were language barrier and/or comprehension issues. While Judiciary policy mandates that petitioners can ask for interpreter assistance without cost, there were some who said that they were not aware of this right, when interviewed by the Team. The request for assistance notice is included in the TRO forms, although victims with language/comprehension issues may fail to understand this part. Additional signage has now been prominently posted throughout the Third Floor and elevators of the Kapolei Courthouse. Court officers have received training on listening for individuals with such issues, and may also "scribe" for petitioners having difficulty writing.

Court officers answer general procedural questions and try to clarify parts of the form, but some court officers feel restrained from providing too specific assistance to complete the form, to avoid the appearance of providing legal advice. The court procedural policy is silent on the time frame relating to the petition narrative, but in their interviews with the Assessment Team, some court officers were said to limit the information to within a six month timeframe on the narrative section. Such timeframe is no longer given, and petitioners are asked to describe the first incident of abuse, the most recent incident, and other incidents of abuse in the application.

Based on the petitioner's application narrative as the sole determinant for the granting of a TRO, it is critical that the information presented be as comprehensive as possible, and include crucial details outlining the safety risks that the petitioner faces. Based on interviews with victims, the assistance of a DV advocate would increase the likelihood of obtaining a TRO. There is limited availability of courthouse advocacy presence (particularly with the ExPO program),

due to funding and the number of cases being handled simultaneously in both the TRO reviews and the Order to Show Cause (OSC) calendars.

The Judiciary cannot conduct a primary aggressor assessment as part of the legal process, until the adjudication process is completed, and will process applications from all TRO petitioners. This becomes an issue if a perpetrator is first to file a petition, making a victim the respondent, against whom protective orders are sought. However, to avoid Family Court orders that could conflict with each other, a part of the TRO Unit intake process is to check for cross-filings, so that they could be set up on the same OSC hearing calendar.

At the time of the Team interviews with ACSB staff in February and March 2015, all petitioners with children (named or not) were routinely referred to the DHS Child Welfare Services (CWS) Intake for determination of appropriate action by that agency. Around April 2015, petitioners were provided a Family Court child abuse self-reporting checklist form if they had any children. There was no explanation by the Court officer as to its purpose and consequences, although this form was then forwarded to the CWS unit by the TRO Unit Officer, if there were any indication of child endangerment. This form has been discontinued, effective January 2016.

During the Team interviews and observations in the January through May 2015 period, to obtain same-day judicial services, the completed TRO application needed to be submitted by 9:00 AM, in order for the TRO Unit to conduct its review of the applications, prepare the case files, and enter the data into the information systems to check for cross-filings or other pending court petitions. This timeframe precluded victims from obtaining TROs on the same day if they are unable to meet this cutoff time for the TRO processing. The TRO Family Court judges generally review petitions in between or after their OSC hearings, which are conducted in the mornings, so court officers must have all petitions submitted during this time. While walk-ins are available anytime during business hours, the TRO Unit would accept appointments 7:45 am or 1:30 PM at both court locations to receive applications, although the afternoon applications would be processed for judicial review on the next business day. This process essentially precluded TRO petitioners from receiving services after mid-morning. The TRO timeline for submission process has since been revised, following discussion with the Senior Family Court Judge. TRO petitions are now accepted throughout the business day for processing and ex parte review, provided the judicial staff has sufficient time to conduct its required actions before the end of the day. Currently, few, if any, are carried over to the next business day.

Strengths:

1. Existence of specific ACSB TRO unit assigned to assist petitioners.
2. Automated ACSB TRO Unit 24-hour information line.
3. Same day processing of TRO petitions if filing within timeframe.
4. Availability of DV advocates on site.
5. Multiple points of entry for filing (locations and agency assistance).
6. Language and accommodation assistance provided upon request and/or after judicial assessment without cost to petitioner, with several court staff having

bilingual (Tagalog, Ilocano, Spanish, Samoan and American Sign Language) skills, and are accessible to clients during the TRO process.

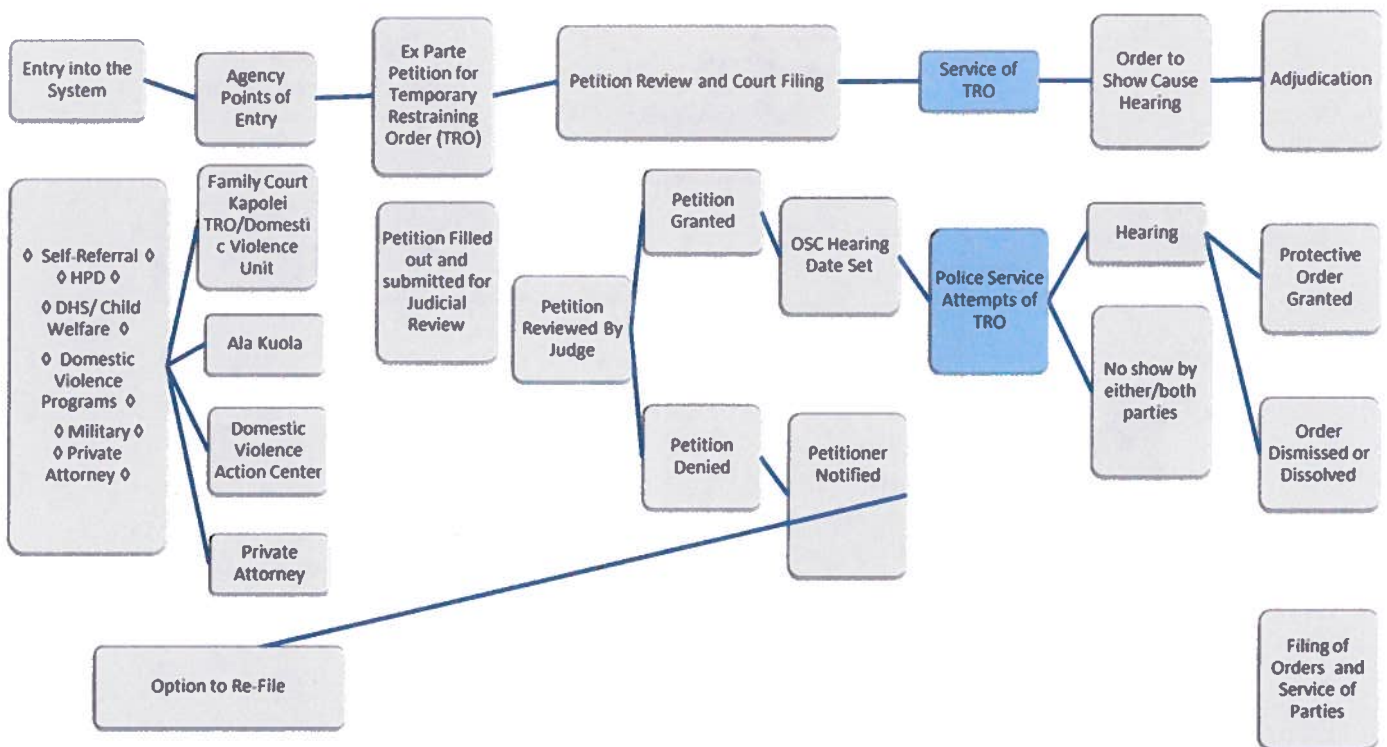
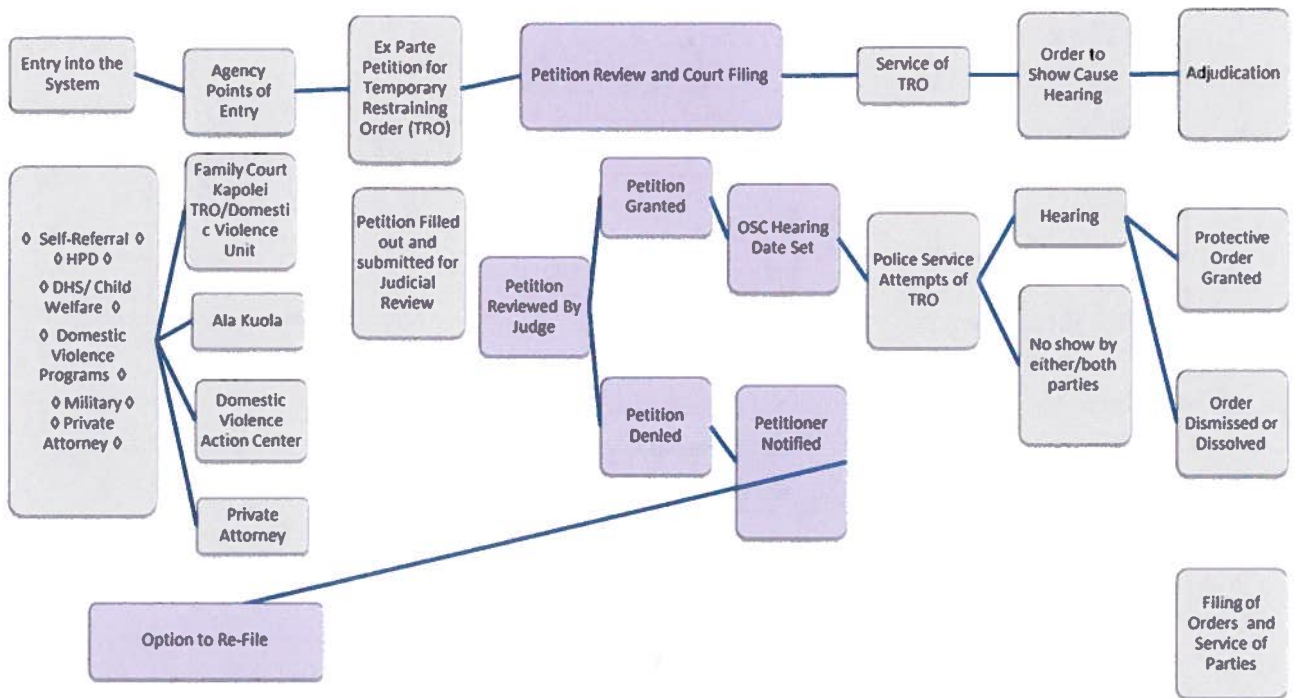
Areas That Need Improvement:

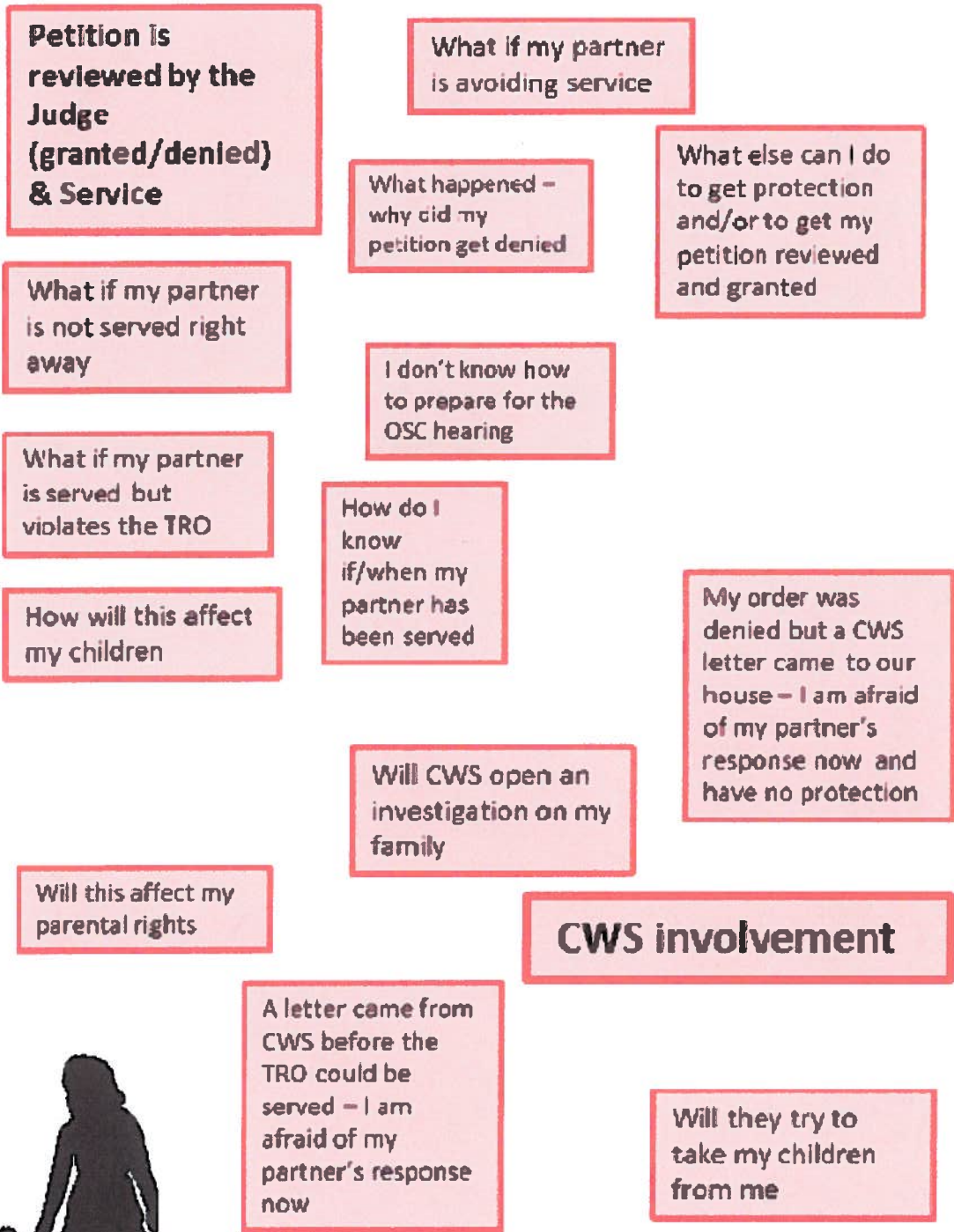
1. Timeframe cutoff on submission of paperwork for same-day orders. *This is no longer an issue with the day-long processing of all TRO petitions.*
2. TRO staff communication to the applicant on the need for thorough incident or historical information in the TRO narrative section of the application, on which the judicial decision will be based.
3. Improved visibility of language accessibility services notices in court areas and utilization of interpreters when comprehension issues are manifested. *This has been addressed with the posting of Limited English Proficiency (LEP) services through the court facilities, and the rigorous application of the Judiciary mandate for assistance.*
4. At both courthouses, there is no security present prior to and after leaving the TRO process. At the Honolulu Circuit Court, there is no monitoring of individuals entering for TRO applications, and it is possible to have the abuser present in the same room. There is no check-in procedure by court staff as in Kapolei court and no visible security on the floor. The room is very small with only one court officer to assist multiple petitioners.
5. Unclear policy/protocol and/or inconsistent practice on allowing accompaniment with petitioner when completing application.
6. Cross-filing of TROs involving children.
7. Description of services as being “victim-oriented”/“victim services” is misleading for service agencies that do not identify victims via assessment.
8. The need to promote a trauma-informed approach by the Family Court system in working with victims.

Recommendations:

1. Increase the availability/access of updated printed material for petitioners, especially at the beginning of the TRO application process, that clearly outline process and information required for the TRO application, to include specific notice on accessing language and comprehension assistance and victim accompaniment.
2. Create a Family Court TRO filing policy that establishes consistent practices in the filing process.
3. Provide staff that is able to do cross-filing checks during the TRO process at the Honolulu court site.
4. Apply the term “victim services” only to services that utilize victim assessment to determine victim status.
5. Increase available legal and advocacy services to assist petitioners.
6. Provide specific personnel training in trauma-informed care throughout the court system.

CHAPTER 4: Petition Review, Disposition and Service of Granted TROs





CHAPTER 4: Petition Review, Disposition and Service of Granted TROs

The TRO petition is forwarded to one of several Family Court Domestic Abuse judges only at the Kapolei Court for an ex parte review in the petition. Petitions received at the Honolulu Circuit Court are electronically processed by the TRO Unit staff for review at the Kapolei Court. In an ex parte process, only the petitioner is submitting a written request for an order, and the order, if issued, is temporary until there can be a hearing with the respondent present. Based on probable cause as the burden of proof, a decision is made to either grant or deny the petition. The petitioner returns to the Kapolei Court or Circuit Court in Honolulu after 2:30 PM on the same day of filing, and will be given the disposition of the TRO application at that time.

If the TRO is granted, certified copies of the court order are provided to the petitioner. The petitioner may choose to deliver the TRO service documents to the HPD station/substation, or request for the documents be electronically transmitted to HPD Records for forwarding to the appropriate HPD station/substation for service if the respondent's address is listed. An OSC hearing will be held no later than 15 days from the issuance of the TRO, although the TRO can remain in effect up to 180 days with the court's discretion. With the granted TRO, the Court Officer provides a "Petitioner's Instructions" brochure with additional information regarding HPD service of orders and preparing for the OSC hearing.

The granted petition information is also sent to the National Protection Order (NPO) File maintained by the FBI as part of their National Crime Information Center (NCIC) system. Entering granted petition records into the national system allows law enforcement agencies and other authorized criminal justice agencies throughout the United States, Guam, and the U.S. Virgin Islands the ability to view information regarding TROs and protection orders issued in Hawaii. The granted TRO information is sent to the NPO File automatically through Hawaii Criminal Justice Data Center's CJIS-HAWAII system, as long as all mandatory data fields are entered by the judicial clerks.

HPD has the function of serving the TRO upon the named respondent immediately, and allows itself a seven day period in which to do so. Upon service, the Proof of Service document is forwarded to its Records Division, entered into the CJIS-HAWAII system, and the Proof of Service document is sent to the court. HPD will continue to make attempts to serve up until the OSC hearing date. Unserved TROs are returned to HPD Records Division, and sent back to the court. Off-island service of TROs is covered under the Full Faith and Credit Act, which provides validity for all duly-issued protection orders issued by the courts.

If children are on the petition, the judge may order involvement of the Child Welfare Services (CWS), under the Department of Human Services. If so, the CWS is given a timeframe in which to make an assessment and report back to the court on its recommendations. Even if the TRO petition is denied, a report is sent to the Court by the OSC hearing date (this has since been discontinued by the Court).

If the respondent is in the military, the TRO is faxed to the Hawaii Armed Services Police (HASP) for military notification, which then identifies and notifies the appropriate military branch chain of command and Family Advocacy Program (FAP), which in turn links the party(s) to FAP services and other military services providers. Military advocates and/or respondent's chain of command often accompany the party(s) to the OSC hearing.

Insufficient evidence as determined by the judge is the basis for the denial of the TRO. If the petition is denied, petitioner is informed of the option to reapply, to seek legal counsel or advocacy assistance, or is referred to the Family Court Service Center for information on other court action. DVAC will often pick up cases involving intimate partner violence for service with its TRO Clinic to assist victims in refiling applications.

Summary of CSA Team Reports:

The most vocal concern by victims/petitioners to the TRO process is that when a petition is denied, there is no feedback as to the reason for its disapproval. Judges base their decision on probable cause, using the evidence written in the petition. Some petitioners have stated that they are confused and uncertain about what else they could have done in the petition application to get it granted. However, the ex parte process prevents judges from providing communication with petitioners.

Several interviewed victims stated that they were not informed by the court officers of their right to resubmit another application for a TRO. If the petitioner chooses to refile on the same allegations, a more detailed description that clearly puts the allegation into the context of safety risk for the petitioner would be critical data. The assistance of a DV advocate would be important at this juncture, and the TRO Unit procedure is to provide an informational brochure and contact information on DVAC services to those denied a TRO. Additionally, if a DVAC advocate is available, a referral will be made.

Denied TRO petitions are not entered into CJIS-HAWAII, so there is no ready reference to record patterns or similar factors on the TRO process, although the CJIS-HAWAII program is set up to allow entry of this data. The judicial clerks do keep a separate spreadsheet of denied TROs.

Service of the TRO is the responsibility of HPD once the documents are transmitted to them via the petitioner taking the service documents to the police station or the judicial clerks electronically transmitting the documents to the HPD Records & Identification Division for downloading at the appropriate police station. The HPD has 7 days within which to serve the TRO to the respondent, but will continue to attempt service up until the OCS hearing date, then it will return the documents as "unserved". In the victim focus groups, some of the victims voiced uncertainty about whether rigorous efforts were consistently made by HPD to serve the TRO. They cited instances where the police were notified of the respondent's presence or location but the respondent was still not immediately served by officers. One concern of several victims was the impact of officers' existing relationship with a respondent who was familiar or related to the officer(s) responsible to serve the TRO.

Notification to CWS for an assessment of the case involving minors in the home is done in some of the TRO cases, as the Court is a mandated reporter, and any indication that the children were subject to or witnessed domestic violence between their parents/caretakers would require such notification to CWS. Given the brief timeframe with which CWS must act and report back to the court, there have been a few occasions in which they (or their contracted family service programs, Voluntary Case Management/VCM or Family Strengthening Services/FSS) will have contacted the respondent prior to his/her notification of the TRO action. This may cause a negative reaction by respondent, who may become uncooperative or seek to avoid service by the police. The potential involvement of CWS, along with the possible removal from custody and placement in foster care, has triggered fear in some victims to reconsider the TRO process. If the PO petition is denied, it is still possible that CWS may continue to be involved with the family, although there is no court action pending with the petitioner. The Court prefers to have a CWS worker present the investigative report, rather than possibly retraumatizing a child to testify in the Order to Show Cause (OSC) hearing.

HCJDC staff indicated that some TROs get sent back from NCIC and are not entered in the national file because information was missing in CJIS-HAWAII. It was noted that often the missing information was the date of birth for the respondent or petitioner. The CJIS-HAWAII database for criminal history records and for TROs are separately maintained, and not linked to each other. This hampers the courts and law enforcement, as a criminal history record check would not indicate there is a TRO, as well as a TRO check would not indicate a criminal history record in CJIS-HAWAII.

Strengths:

1. Application and review process can be completed in a single day, with the determination of granting or denying the TRO performed in an ex-parte review by a Family Court Judge.
2. Family Court and HPD have a streamlined process for transmission of the TRO documents for service.
3. The matter is returned to Family Court in a two-week timeframe with an OCS hearing for the respondent.
4. CWS can be involved immediately through court referral if protection of children are involved in the petition allegations.
5. If the respondent is in the military, the respondent's chain of command and military branch FAP is notified via fax of TRO to HASP. This provides the link to FAP services and to other military service providers for petitioner and/or respondent.
6. For granted TROs, petitioners are provided a "Petitioners Instructions" brochure which includes information on taking the TRO documents to HPD, preparing for the OSC hearing, and safety precautions if problems with the respondent are encountered.
7. DVAC advocates are present on the floor during the afternoon to speak to IPV petitioners after the court officer serves the TRO petition to petitioners. Denied IPV

petitioners are usually referred to the DVAC advocates at that time, so that another petition may be filed immediately.

Areas That Need Improvement:

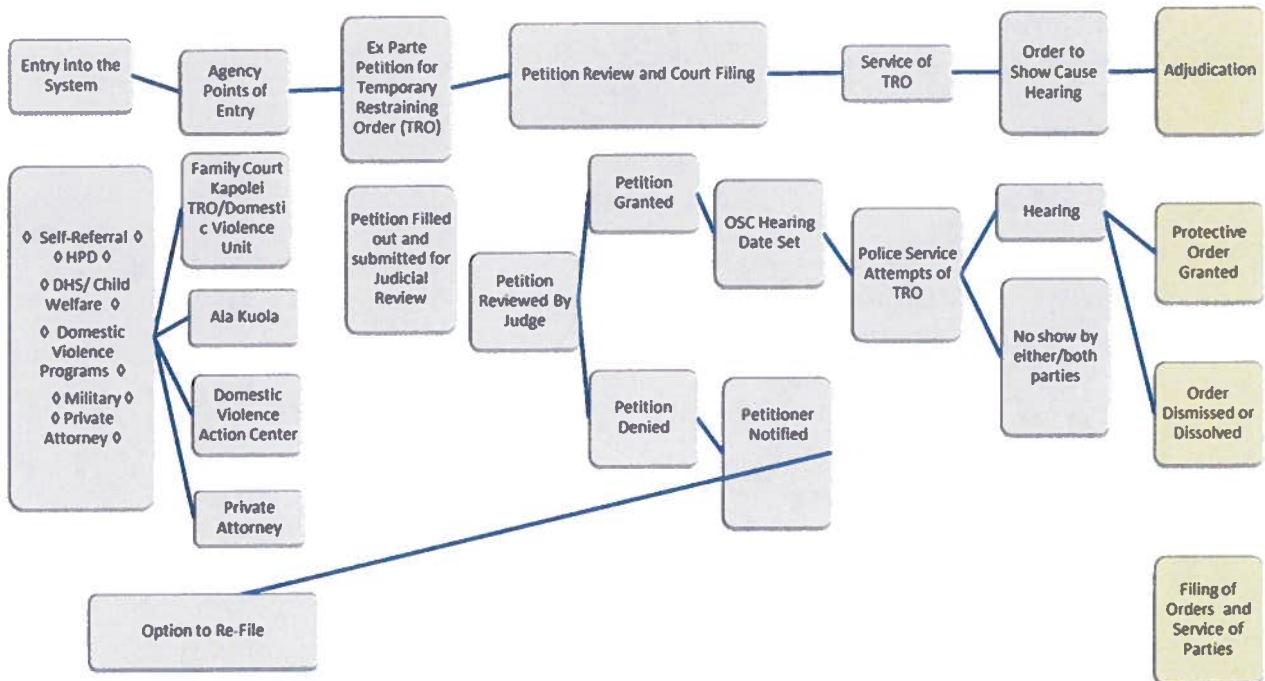
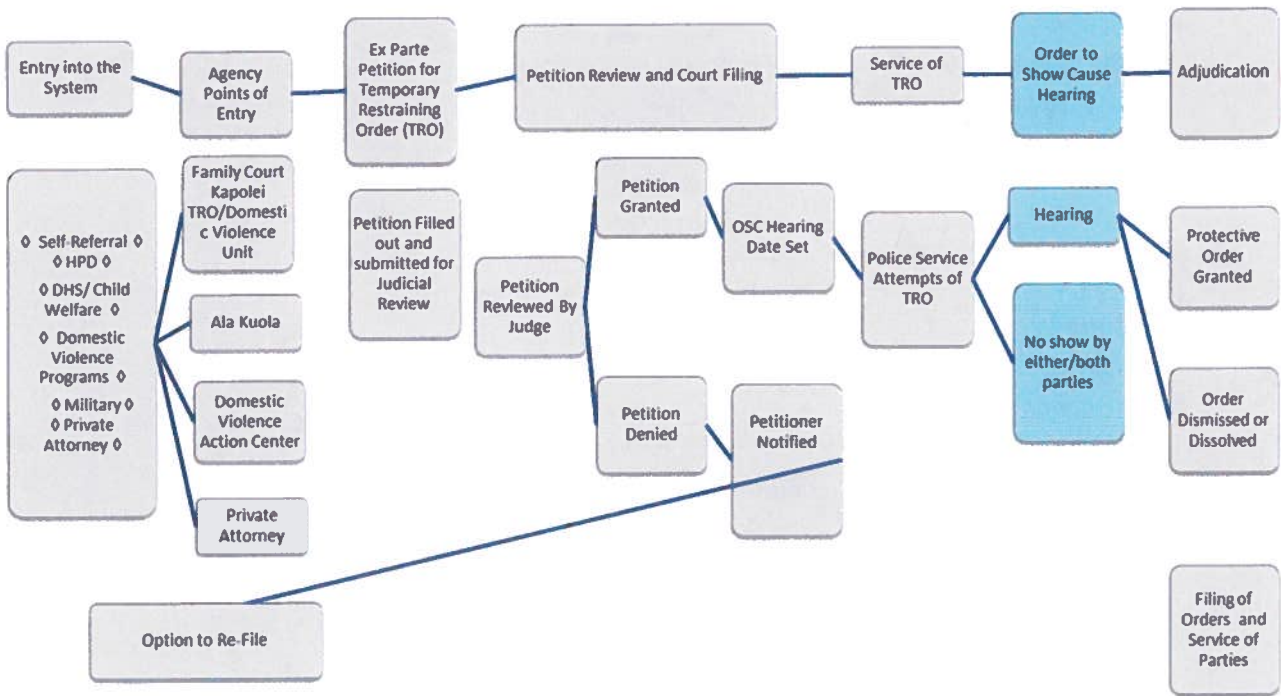
1. Limited timeframe for submission and review of petitions hampers the issuance of same-day TROs. (This is no longer an issue, per Strengths #1 above)
2. Reason for denial unclear to petitioners and they were not consistently advised that they may refile. (This is clarified in the explanation of the ex parte process above, and the DVAC referral for denials.)
3. There is no official record of denied TROs in CJIS-HAWAII (which creates a gap in victim safety history).
4. Service of Honolulu TROs outside of Oahu is not consistent and can impact victim safety.
5. The cross-filing of TROs by petitioner and respondent elevates the risk of removal of the children from either parents if the children are listed in the TRO petition.
6. Judges are ordering CWS investigation at ex parte in some cases where children are identified, which does not allow for the agency to apply the appropriate protocol (differential response system). An inappropriate level of referral by the court has potentially detrimental effects on the victim, who may be permanently listed on the CWS offender registry system, presenting future issues relating to custody, fostering, adoption, employment, etc.
7. CWS Investigation Unit is being used as a means for evidence gathering and reporting at the OSC hearing, which is held two weeks from the issuance of the TRO. CWS investigation timeline protocol is 60 days from referral. In cases of TROs denied at OSC hearings, CWS involvement continues with the family.
8. There are a few instances where the CWS appointment letter is received or worker contacts the respondent prior to service by HPD.

Recommendations:

1. Provide more comprehensive information to petitioners regarding evidence to include in a TRO narrative section of the application.
2. Make assistance of a DV advocate readily available to petitioners at the start of the TRO application process.
3. Provide judges more options for evidence gathering and assessment on complex DV family dynamics and child safety.
4. Record all denied TROs into CJIS-HAWAII (this functional option is already available in CJIS-HAWAII) for historical and safety considerations.
5. Ensure that the names of all protected persons listed (petitioners, minors, incapacitated persons, but not pets) on the TRO/PO are entered into CJIS-HAWAII-Hawaii.
6. If at the OSC hearing the judges have concerns regarding child safety, a court-ordered investigation should be made at that OSC hearing.

7. Continue dialogue to promote coordination/collaboration between Family Court and CWS.
8. Explore options to improve TRO service for non-Oahu locations.

CHAPTER 5: Order to Show Cause Hearing, Disposition and PO Service



What do I do if the judge does not grant the order for protection – how will I stay safe

I have no information on how these hearings work and how to prepare depending on the type of hearing

Where is the security outside the courthouse – my partner and I have to arrive at the same time and use the same entrance

What are my language accessibility rights if I do not speak or read English

The Order to Show Cause Hearing

My partner was served first and is waiting for me outside the building/in the parking lot. How do I safely leave

What do I do if my hearing gets continued repeatedly or for CWS issues? Repeated hearings greatly affect my livelihood, stability and safety

I do not know this process – I did not know I needed to bring witnesses and evidence and present them myself – I feel unprepared

How does my partner's violations of the TRO affect my hearing today?

Why are my partner's friends/family/supporters not prohibited from contacting me in the waiting area? I feel intimidated and afraid

What if I don't feel the protection order that was granted is long enough



CHAPTER 5: Order to Show Cause Hearing, Disposition and PO Service

The Order to Show Cause (OSC) hearing is held within 15 days of the issuance of the TRO. If the Proof of Service has been completed, documentation will be provided by HPD via their records division and CJIS-HAWAII. Petitioners and respondents are required to appear in court at 7:45 AM, and the bailiff will confirm the parties' presence on the court calendar. If the respondent has not been served with the TRO by the date of the hearing, the hearing may be set for an amended notice of hearing (ANOH). After the ANOH date and the respondent is still not served, the petition is then dismissed without prejudice. The petition may be refiled on the same allegation by the petitioner. If Proof of Service has not been completed, and only the Petitioner is present, the case may or may not be continued. If neither party appears at the OSC hearing, the TRO petition will likely be dissolved.

The Kapolei Court has three courtrooms for OSC hearings, which are held only at this location. There are currently three full-time judges assigned to the Family Court- Domestic Abuse (FC-DA) calendar that oversee the OSC hearings for TRO petitions.

Petitioners and respondents for OSC Hearings are identified by color-coded wristbands issued by the bailiff upon entry to the Third Floor of the Kapolei Court, and seated in separate sections of the that floor. In the hearing itself, both parties may bring in legal representation, and a victim advocate, if the agency has already been providing assistance in the TRO process. If requested or there is a judicial assessment that indicates such a need, an interpreter will be provided for either/both parties at the hearing. The petitioner will present the information alleged in the petition to the judge, and the respondent will have the opportunity to rebut the information and/or present additional information. The burden of proof is on the petitioner to show the allegations to be true based on a preponderance of evidence. Based on credible evidence, applicable law, and standard of proof, the judge will determine if the petition is sustained or denied. If the petition is denied, the case is dismissed and the petitioner may submit another application for a TRO if she/he wants another opportunity to seek protection.

If the petition is sustained, the judge will issue an Order for Protection (PO) with a defined time period and conditions with which both petitioner and respondent must comply. Documentation for the PO will be filed with CJIS-HAWAII and HPD for issuance and enforcement. Normally, both parties are served by the ACSB court officer after the hearing and before leaving court premises. In limited circumstances, the respondent may be served the PO by law enforcement (HPD or Sheriff Department) if respondent leaves court without being served. To increase safety of petitioners, the court hearing procedure calls for the petitioner to enter the courtroom first, followed by the respondent. After the hearing, the reverse procedure is followed, unless the petitioner requests to leave first.

If the respondent does not show up for the hearing and the PO is granted, the ACSB court officer will provide petitioner with two certified copies of the order and HPD Serving Instructions/Proof of Service form to take to the district station/substation in the area in which

the respondent resides and/or works. The PO is considered served if the respondent's identity has been established, and he/she is made aware of the existence of the order and provided a copy of the order by an HPD officer. Upon service, the PO becomes enforceable. The HPD officer will then forward the proof of service to the court. POs remain with HPD until respondent is served, no serviceable address for respondent is available, or the PO expired. Unserved documents are returned to Family Court.

Summary of CSA Team Reports:

The OSC setting can be a fearful situation for victims for a number of reasons. As previously mentioned, there is a lack of visible security outside of the court building before and after the courtroom action, although victims/petitioners can request a Sheriff's escort to the parking lot through a form from the bailiff (many were unaware of this service). In the area around the courtroom, the petitioner and respondent are separated, but family and friends of the respondent are not restricted or refrained from contact or view of the petitioner, and this can be subtle but very intimidating, especially if the bailiff and Court Officer are unaware of the situation. In the hearing itself, many of the victims recount being overwhelmed and exhausted from the safety process (which can mean living in a shelter, inability to access resources from the home, mandatory service agency meetings, and trying to maintain an intact setting if children are involved, as examples of this situation). Family Court judges receive training to be able to assess the victims' situations.

A number of observed instances of the court hearings reflect a level of inconsistency in the knowledge and expertise in DV dynamics and practice in the FC-DA process by some legal and service practitioners and court staff (e.g., criteria for courtroom presence in the OSC hearings). Not many petitioners were observed to have legal representation at the OSC hearings, and could have benefitted from the presence of legal counsel. Information is provided to petitioners about DVAC legal services at the time of the granting of the TRO earlier.

Strengths:

1. Court hearing provides an opportunity for petitioner to present information directly to a judge, and she/he may have legal counsel or advocate present to assist.
2. There is a physical separation of petitioner and respondent on the Third Floor by issuance of colored wristbands to identify the parties' roles.
3. Sheriffs are located on each floor of the Kapolei Court for security assistance.

Areas That Need Improvement:

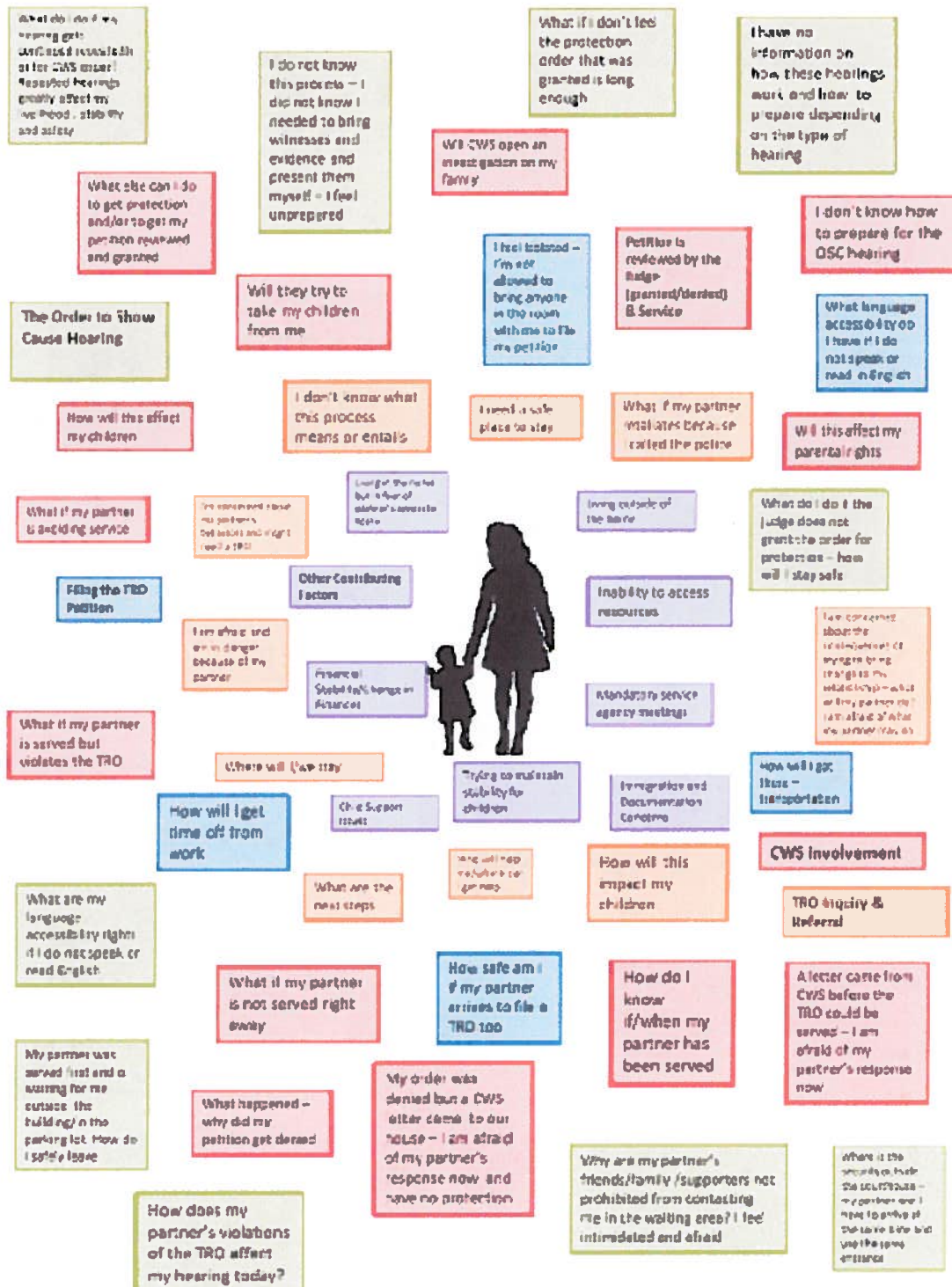
1. Safety at the court facilities needs to address both physical and emotional safety of victims, as the present outside structural design of the TRO process, from the open parking area and the public single entry, allow for the respondent, family and friends to have physical and visual contact with the petitioner.
2. There are inconsistencies with court personnel regarding the policy for advocacy accompaniment with the petitioner in the hearing.

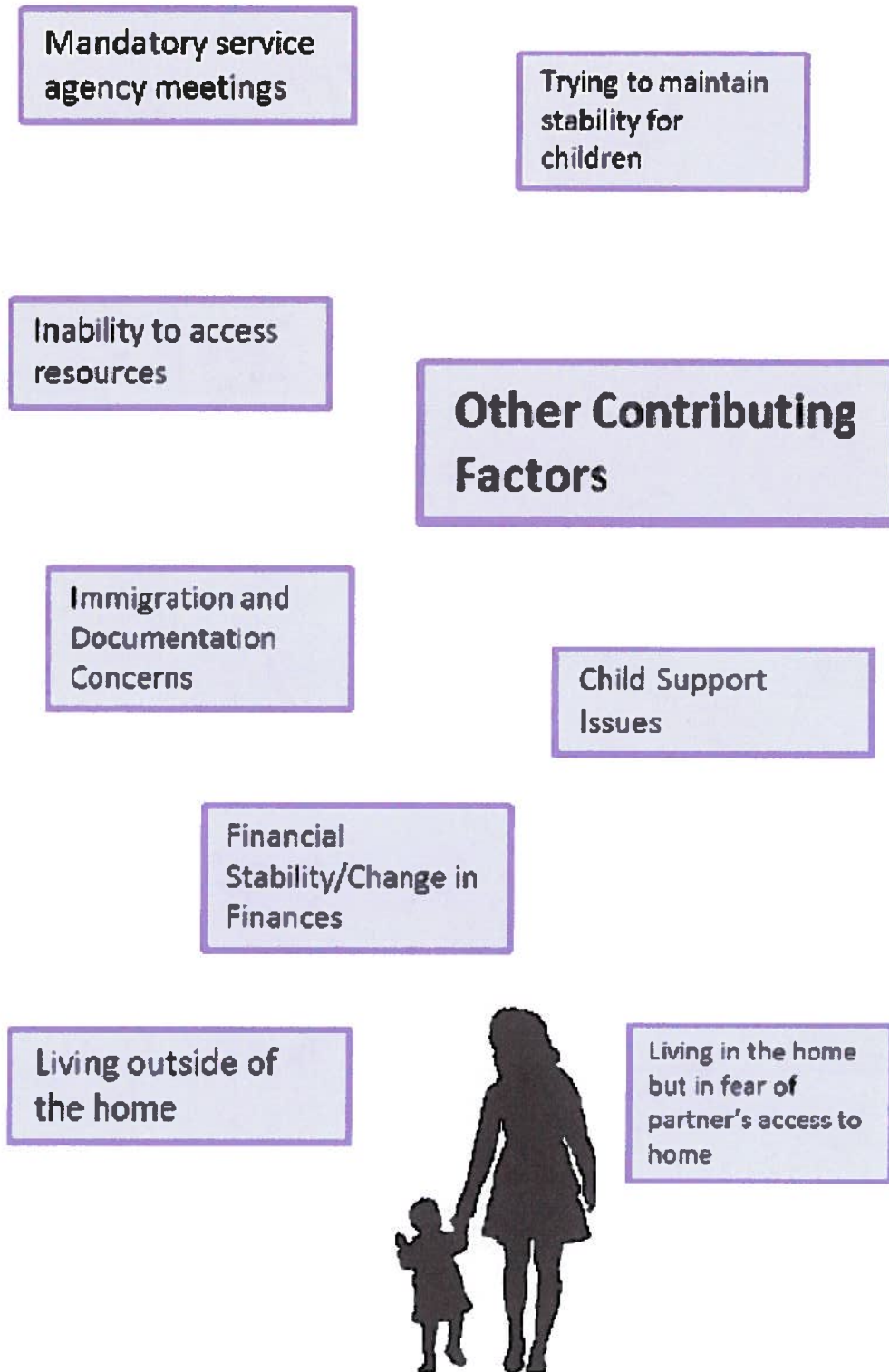
3. The potential benefits for legal representation should be highlighted.
4. The level of information and knowledge of DV dynamics are inconsistent across attorneys, advocates, sheriffs and court personnel. By failing to comprehend the potential for violence brought on by certain court actions, the victims' safety can be significantly impacted during the court proceedings and following the outcome of the hearing.
5. Violations of the TRO prior to the OSC hearing are indicative of a huge safety risk for the victim, especially if there is inconsistent or no enforcement by arrest of the respondent for such violations, and need to be taken into consideration at the OSC hearing.

Recommendations:

1. Court hearing procedures need to clearly spell out the rights and benefits to be accompanied by legal counsel and advocate, with the information reviewed by all court personnel and provided to petitioner and respondent as part of the TRO information packet.
2. Court management should regularly meet with all court staff and security personnel (Sheriffs, contracted security agency) to review procedures that promote and increase security presence for victim safety both inside and outside (parking area) of the court facility.
3. Attorneys and advocates that attend the hearings on behalf of petitioner/respondent should be trained in DV dynamics and court procedures relating to the FC-DA cases to properly represent their clients.

CHAPTER 6: Summary and Recommendations





CHAPTER 6: Summary and Recommendations

The focus of this Honolulu CSA project is to address the safety concerns relating to victims of IPV who are seeking protection orders. This chapter will provide a summary of each stage of the process, followed by recaps that identify strengths and areas that could be improved, and recommendations that will promote a better system response to the process. In a number of cases, changes were implemented while the Team was making its observations and interviews, as an immediate response to issues that were identified, and are noted in each instance.

Chapter 2: TRO Inquiry & Referral

Summary:

1. Information on the protection order process and options to safety were not readily evident for some victims to navigate through system.
2. Awareness and ability to recognize and implement language and disability accessibility/accommodations are important factors in appropriateness of responders' service delivery to victims.
3. Knowledge and understanding of DV dynamics of those who respond, provide services, advocate, and refer are critical to victim safety, to include:
 - a. Ability to assess who is the victim vs. abuser
 - b. Realizing the ability of perpetrators to use and/or manipulate the system as an abuse tactic

Strengths:

1. HRS statutes relating to domestic violence and IPV.
2. HPD Policy for responding to DV, including mandatory arrest and the distribution of DV Help Cards.
3. HPD website information on seeking protection orders for domestic violence.
4. Judiciary website information on TRO filing process and locations, and downloading of forms.
5. Availability of 24-hour DV advocacy services, including shelter & crisis counseling hotlines.

Areas That Need Improvement:

1. Widespread publicity and distribution of (public) information regarding victim safety options to address intimate partner violence.
2. Victim-centered, trauma-informed responses by first responders, as a victim may not be aware of the right to obtain protection, may be traumatized and is often unfamiliar with the TRO petition process.
3. Shortage of comprehensive and consistent services/resources that enable victim/children to leave safely.

Recommendations:

1. Increase the presence of DV advocate on scene or immediately following incident, to assist victim/children in services, including transition (such as a Domestic Abuse Response Team/Domestic Violence Response Team - DART/DVRT).
2. Provide training for First Responders that:
 - i. Will increase understanding of DV dynamics that include:
 - Ability to identify the primary aggressor and the victim in the context of the DV relationship, as opposed to relating only to the emergency situation (*HPD is working with HSCADV to implement a Lethality Assessment Program on Oahu that will feature a training video for officers responding to DV calls in 2016*)
 - ii. Will effectively convey information and options provided to victims in addition to TRO, to include:
 - Stay-away orders against perpetrator
 - Report/arrest of perpetrator
 - iii. Will improve the current Referral/ HELP cards
 - Ensure agencies/numbers are updated regularly
 - Create separate TRO Help Card for first responders
 - iv. Will elevate and increase recognize of the impact of Vicarious Trauma on first responders
3. Provide ready accessibility to services and assistance in on-scene preparation for safety when victim is leaving, to include:
 - Transportation
 - Personal effects, such as: family documents for identification, financial accessibility, eligibility for services, cell phone, money, and pets

Chapter 3: Applying for and Filing of TRO Petition

Summary:

1. Applications for a TRO are done at either the Kapolei Court or Circuit Court in Honolulu (Honolulu site limited to Mondays, Wednesdays and Fridays) with the TRO Unit.
2. Forms may be downloaded off the Judiciary website prior to arriving at court, and petitioners may also work with Ala Kuola or DVAC on completing the forms.
3. Application for the petition needs to provide sufficient information relating to the request for protection, as this will be the basis for the judge's decision to grant or deny a petition.
4. Completed petitions are reviewed by the TRO Unit for accuracy of applicant information and cross-referenced for any pending court action, and then the filed petitions are submitted for ex parte review by the Family Court judge.

5. Petitioners are asked to return in the afternoon to find out if the petition is granted or denied.

Strengths:

1. Existence of specific ACSB TRO unit assigned to assist petitioners.
2. Automated ACSB TRO Unit 24-hour information line.
3. Same day processing of TRO petitions if filing within timeframe.
4. Availability of DV advocates on site.
5. Multiple points of entry for filing (locations and agency assistance).
6. Language and accommodation assistance provided upon request and without cost to petitioner, with several court staff having bilingual (Tagalog, Ilocano, Spanish, Samoan and American Sign Language) skills accessible to clients during the TRO process.

Areas That Need Improvements:

1. Timeframe cutoff on submission of paperwork for same-day orders. *This is no longer an issue with the day-long processing of all TRO petitions.*
2. TRO Staff communication to applicants on the need for thorough incident and historical information in the TRO narrative section of the application, on which the judicial decision will be based.
3. Improved visibility of language accessibility services notices in court areas and utilization of interpreters when comprehension issues are manifested. *This has been addressed with the posting of Limited English Proficiency (LEP) services through the court facilities, and the rigorous application of the Judiciary mandate for assistance.*
4. At both court facilities, there is no security present prior to entering or after leaving the TRO process. At the Honolulu Circuit Court, there is no monitoring of individuals entering for TRO applications as there is no check-in procedure by court staff as in Kapolei court and no visible security on the floor. The room is very small with only one court officer to assist multiple petitioners and it is possible to have the abuser present in the same room.
5. Unclear policy/protocol and/or inconsistent practice on allowing accompaniment with petitioner when completing application.
6. Cross-filing of TROs involving children.
7. Description of services as being “victim-oriented”/“victim services” is misleading for service agencies that do not identify victims via assessment.
8. The need to promote a trauma-informed approach by the Family Court system in working with victims.

Recommendations:

1. Increase the availability/access of updated printed material for petitioners, especially at the beginning of the TRO application process, that clearly outline process and information required for the TRO application, to include specific notice on accessing language and comprehension assistance and victim accompaniment.

2. Create a Family Court TRO filing policy that establishes consistent practices in the filing process.
3. Provide staff that is able to do cross-filing checks during the TRO process at the Honolulu court site.
4. Apply the term “victim services” only to services that utilize victim assessment to determine victim status.
5. Increase available legal and advocacy services to assist petitioners.
6. Provide specific personnel training in trauma-informed care throughout the court system.

Chapter 4: TRO Petition Review, Disposition, and Service of Granted TROs

Summary:

1. In the ex parte review, the judge will make a decision to either grant or deny the petition based on the current petition’s allegations.
2. If granted, the TRO Unit will provide the petitioner with certified copies of the court order, which she/he must deliver to HPD for required service to the respondent. The petitioner may also elect to have the TRO Unit transmit the order electronically to HPD for service if an address is provided for respondent.
3. An Order to Show Cause (OSC) hearing is held two weeks after issuance of the TRO. If the respondent has not been served with the TRO by the date of the hearing, the hearing may be set for an amended notice of hearing (ANOH). After the ANOH date and the respondent is still not served, the petition is then dismissed without prejudice. The petition may be refiled on the same allegation by the petitioner.
4. If denied, the petitioner has the option of refiling another TRO petition with the court, or take no further action. In certain cases, the DVAC will assist a petitioner in refiling.
5. If children are listed on the petition, CWS may be notified to provide the court with an assessment of any need for protection of the children.

Strengths:

1. Application and review process can be completed in a single day, with the determination of granting or denying the TRO performed in an ex-parte review by a Family Court Judge.
2. Family Court and HPD have a streamlined process for transmission of the TRO documents for service.
3. The matter is returned to Family Court in a two-week timeframe with an OSC hearing for the respondent.
4. CWS can be involved immediately through court referral if protection of children are involved in the petition allegations.
5. If the respondent is in the military, the respondent’s chain of command and military branch FAP is notified via fax of TRO to HASP. This provides the link to FAP services and to other military service providers for petitioner and/or respondent.

6. For granted TROs, petitioners are provided a “Petitioners Instructions” brochure which includes information on taking the TRO documents to HPD, preparing for the OSC hearing, and safety precautions if problems with the respondent are encountered.
7. DVAC advocates are present on the floor during the afternoon to speak to IPV petitioners after the court officer serves the TRO petition to petitioners. Denied IPV petitioners are usually referred to the DVAC advocates at that time, so that another petition may be filed immediately.

Areas That Need Improvement:

1. Limited timeframe for submission and review of petitions hampers the issuance of same-day TROs. (This is no longer an issue, per Strengths #2 above)
2. Reason for denial unclear to petitioners and they were not consistently advised that they may refile. (This is clarified in the explanation of the ex parte process above, and the DVAC referral for denials.)
3. There is no official record of denied TROs in CJIS-HAWAII (which creates a gap in victim safety history).
4. Service of Honolulu TROs outside of Oahu is not consistent and can impact victim safety.
5. The cross-filing of TROs by petitioner and respondent elevates the risk of removal of the children from either parents if the children are listed in the TRO petition.
6. Judges are ordering CWS investigation at ex parte in some cases where children are identified, which does not allow for the agency to apply the appropriate protocol (differential response system). An inappropriate level of referral by the court has potentially detrimental effects on the victim, who may be permanently listed on the CWS offender registry system, presenting future issues relating to custody, fostering, adoption, employment, etc.
7. CWS Investigation Unit is being used as a means for evidence gathering and reporting at the OSC hearing, which is held two weeks from the issuance of the TRO. CWS investigation timeline protocol is 60 days from referral. In cases of TROs denied at OSC hearings, CWS involvement continues with the family.
8. There are a few instances where the CWS appointment letter is received or worker contacts the respondent prior to service by HPD.

Recommendations:

1. Provide more comprehensive information to parties regarding evidence to include in a TRO narrative section of the application.
2. Make assistance of a DV advocate readily available to petitioners at the start of the TRO application process.
3. Provide judges more options for evidence gathering and assessment on complex DV family dynamics and child safety.

4. Record all denied TROs into CJIS-HAWAII (this functional option is already available in CJIS-HAWAII) for historical and safety considerations.
5. Ensure that the names of all protected persons listed (petitioners, minors, incapacitated persons, but not pets) on the TRO/PO are entered into CJIS-HAWAII-Hawaii.
6. If at the OSC hearing the judges have concerns regarding child safety, a court-ordered investigation should be made at that OSC hearing.
7. Continue dialogue to promote coordination/collaboration between Family Court and CWS.
8. Explore options to improve TRO service for non-Oahu locations.

Chapter 5: Order to Show Cause Hearing and Disposition

Summary:

1. Both Petitioner and Respondent are ordered to appear at the OSC hearing, and may be accompanied by legal counsel, advocate and/or interpreter.
2. If service to respondent has not been made, the hearing may be reset and the TRO remains in effects until service is implemented and the OSC hearing is held.
3. Based on the information presented by petitioner and respondent, and any agency report ordered, the judge will either grant the order for protection or dissolve the TRO.
4. If granted, the judge will issue the time period and conditions for the order, to which all parties must comply. If denied, the petitioner must reapply if a TRO is still wanted.

Strengths:

1. Court hearing provides an opportunity for petitioner to present information directly to a judge, and she/he may have legal counsel or advocate present to assist.
2. There is a physical separation of petitioner and respondent on the Third Floor by issuance of colored wristbands to identify the parties' roles.
3. Sheriffs are located on each floor of the Kapolei Court for security assistance.

Areas That Need Improvement:

1. Safety at the court facilities needs to address both physical and emotional safety of victims, as the present outside structural design of the TRO process, from the open parking area and the public single entry, allow for the respondent, family and friends to have physical and visual contact with the petitioner.
2. There are inconsistencies with court personnel regarding the policy for advocacy accompaniment with the petitioner in the hearing.
3. The potential benefits of legal representation should be highlighted.

4. The level of information and knowledge of DV dynamics are inconsistent across attorneys, advocates, sheriffs and court personnel. By failing to comprehend the potential for violence brought on by certain court actions, the victims' safety can be significantly impacted during the court proceedings and following the outcome of the hearing.
5. Violations of the TRO prior to the OSC hearing are indicative of a huge safety risk for the victim, especially if there is inconsistent or no enforcement by arrest of the respondent for such violations, and need to be taken into consideration at the OSC hearing.

Recommendations:

1. Court hearing procedures need to clearly spell out the rights and benefits to be accompanied by legal counsel and advocate, with the information reviewed by all court personnel and provided to petitioner and respondent as part of the TRO information packet.
2. Court management should regularly meet with all court staff and security personnel (Sheriffs, contracted security agency) to review procedures that promote and increase security presence for victim safety both inside and outside (parking area) of the court facility.
3. Attorneys and advocates that attend the hearings on behalf of petitioner/respondent should be trained in DV dynamics and court procedures relating to the FC-DA cases to properly represent their clients.

"SIDEBAR" ISSUES:

During the CSA process, there were a number of issues that were related to the TRO/PO process, but not directly related to the Court process for reviewing and granting of the TRO/POs. These issues are included as potential areas that can be addressed in subsequent assessment action relating to victim safety.

1. Timely service of the TRO and the enforcement of the terms of the order are critical safety issues faced by victims of IPV, especially if violations of the TRO are not addressed by law enforcement. Violations of the TRO indicate a "red flag", especially if committed prior to the OSC hearing, and did not result in enforcement action when reported to law enforcement.
2. Military victims appear to be in a confusing situation regarding jurisdiction for TROs. Military authorities are included within the notification system when TROs and POs are issued, but it is unclear about enforcement and firearms removal action for victim safety. The different branches of service have Family Advocacy Programs (FAP), which include assistance to domestic violence services to military personnel and their dependents. The FAP linkages to the court system are not clearly outlined.

3. Removal of weapons if noted on the TRO or PO is not routinely done in all cases, although HPD protocol calls for such action, utilizing the Specialized Service Detail (SSD) if necessary. Apparently there are attendant legal issues regarding search and seizure of firearms at a respondent's residence that need to be addressed.
4. There may be a social stigma attached to victims seeking protection orders, which may inhibit the effort to seek a TRO, in order to avoid being seen in such a public venue as the Family Court. Community education and awareness steps should be explored to eliminate the negative labeling of abuse victims.

APPENDIX A:

The Praxis Community Safety and Accountability Assessment Model

Praxis International has developed and pioneered the use of the Safety Assessment process as a problem-solving tool for communities that are interested in more effective intervention in domestic violence cases. The Safety Assessment is tool used by interdisciplinary groups and domestic violence advocacy organizations to further their common goals of enhancing safety and ensuring accountability when intervening in cases involving intimate partner violence. Its premise is that workers are institutionally organized to do their jobs in particular ways—they are guided to do jobs by the forms, policies, philosophy, and routine work practices of the institution in which they work. When these work practices routinely fail to adequately address the needs of people it is rarely because of the failure of individual practitioners. It is a problem with how their work is organized and coordinated. The Assessment is designed to allow an interagency team to discover how problems are produced in the structure of case processing and management.

Philosophical Overview

When a woman who is beaten in her home dials 911 for help, she activates a complex institutional apparatus responsible for public safety. Within minutes, her call for help is translated into something that makes her experience something that institutions can act upon. Her experience has become a domestic assault case. Over the next twenty-four hours, up to a dozen individuals will act on her case. They hail from as many as five agencies and represent four levels of government. Over the next year, the number of agencies and people who work with her case—and therefore her safety—will more than double. 911 operators, dispatchers, patrol officers, jailers, court clerks, emergency room doctors and nurses, detectives, prosecuting attorneys, law enforcement victim specialists, prosecutor's victim specialists, child protection services workers, civil court judges, criminal court judges, family court judges, guardians ad litem, family court counselors, therapists, social workers, probation officers, shelter advocates, children's advocates, legal advocates, and support group facilitators at the local shelter may all become involved in a chain of events activated by her original call for help. In the past twenty years, every state and hundreds of communities have initiated criminal and civil justice reforms in order to improve victim safety and offender accountability in that chain of events. Laws have been changed, policies written, procedures revised, and training conducted. Domestic violence coordinating councils, task forces, and response teams have been formed. Are communities now safer for domestic violence victims and their children? Are offenders held accountable for violence and coercion? Have our good intentions and reforms helped or hurt? The Assessment helps answer these questions from the standpoint of battered women and their children. While the Assessment Team is compelled to ask questions from the standpoint of women who are battered, the team itself is made up of practitioners in the system and domestic violence advocates and experts. It is a way to look at how a woman's experience is retained or disappears in the handling of the case and whether or not safety and accountability are incorporated into daily routines and practices of workers who act on the case. Because it is structured to reflect the actual experiences and job functions of those who

intervene in domestic violence, it engages workers in the system in a practical, useful change process. The Assessment is not a review of individual performance or effectiveness, but a close look at how workers are institutionally coordinated, both administratively and conceptually, to think about and act on cases. The Assessment Team uncovers practices within and between systems that compromise safety. The team examines each processing point in the management of cases through interviews, observations, review of case files and an analysis of institutional directives, forms, and rules that shape a worker's response. The team's analysis provides direction on specific changes in technology and resources, rules and regulations, administrative procedures, system linkages, and training. The analysis also accounts for how, in attending to the safety of the victim, institutions account for diverse social status factors that affect safety and accountability—for example, race, class, addiction, employment, literacy, immigration status, language, and sexual orientation.

Methodology

The Safety Assessment uses a local team to look at how work routines and ways of doing business strengthen or impede safety for victims of domestic abuse. By asking how something comes about, rather than looking at the individual in the job, an Assessment discovers systemic problems and produce recommendations for longer lasting change. The Safety Assessment is designed to leave communities with new skills and perspectives that can be applied in an ongoing review of its coordinated community response.

The Safety Assessment is built on a foundation of understanding

- 1) institutional case processing, or how a victim of domestic abuse becomes “a case” of domestic violence;
- 2) how response to that case is organized and coordinated within and across interveners; and,
- 3) the complexity of risk and safety for each victim of domestic abuse.

To learn about victims' experiences and institutional responses, the Assessment Team conducts interviews, including victim/survivor focus groups; observes interveners in their real-time-and-place work settings; and, reads and analyzes forms, reports, case files, and other documents that organize case processing. Over a series of debriefing sessions, the team makes sense of what it has learned in order to articulate problem statements, support them with evidence, and frame the kinds of changes that need to occur. Since the Safety Assessment focuses on institutional processes rather than individual workers, there are no systematic sampling procedures. Instead, interviews, observations, and text analysis sample the work process at different points to ensure a sufficient range of experiences. Interviews and observations are conducted with practitioners who are skilled and well-versed in their jobs. Their knowledge of the institutional response in everyday practice and their first-hand experience with the people whose cases are being processed supply many of the critical observations and insights of the Assessment.

Safety Assessment data collection and analysis pay attention to eight primary ways that institutions standardize actions across disciplines, agencies, levels of government, and job function. These “Assessment trails” help point the way to problems and solutions.

1. **Rules and Regulations:** any directive that practitioners are required to follow, such as policies, laws, memorandum of understanding, and insurance regulations.
2. **Administrative Practices:** any case management procedure, protocols, forms, documentary practices, intake processes, screening tools.
3. **Resources:** practitioner case load, technology, staffing levels, availability of support services, and resources available to those whose cases are being processed.
4. **Concepts and Theories:** language, categories, theories, assumptions, philosophical frameworks.
5. **Linkages:** links to previous, subsequent, and parallel interveners.
6. **Mission, Purpose, and Function:** mission of the overall process, such as criminal law, or child protection; purpose of a specific process, such as setting bail or establishing service plans; and, function of a worker in a specific context, such as the judge or a prosecutor in a bail hearing.
7. **Accountability:** each of the ways that processes and practitioners are organized to a) hold abusers accountable for their abuse; b) be accountable to victims; and, c) be accountable to other intervening practitioners.
8. **Education and Training:** professional, academic, in-service, informal and formal.

In a Safety Assessment, the constant focal point is the gap between what people experience and need and what institutions provide. At the center of the interviews, observations, and case file analysis is the effort to see the gap from a victim's position and to see how it is produced by case management practices. In locating how a problem is produced by institutional practices, team members simultaneously discover how to solve it. Recommendations then link directly to the creation of new standardizing practices, such as new rules, policies, procedures, forms, and training.

**APPENDIX B:
Honolulu CSA Planning Committee and Assessment Team Members**

Honolulu CSA Planning Committee

Catholic Charities of Hawaii (CCH)
Child and Family Service (CFS)
Domestic Violence Action Center (DVAC)
Hawaii Department of the Attorney General (DAG) – Crime Prevention and Justice Assistance Division (CPJAD)
Hawaii Department of Health (DOH) – Maternal and Child Health Branch (MCHB)
Hawaii Department of Human Services (DHS)
Hawaii Family Law Clinic - Ala Kuola
Hawaii Immigrant Justice Center at the Legal Aid Society of Hawaii (LASH)
Hawaii State Coalition Against Domestic Violence (HSCADV)
Honolulu Police Department (HPD) – Criminal Investigation Division (CID)
Joyful Heart Foundation
Judiciary, First Circuit Court
Parents and Children Together (PACT)

Assessment Team Members

Agency	Name
Domestic Violence Action Center	Chris Kaakau, Lydia Pavon
Hawaii Department of Attorney General/CPJAD	Jocelyn de Guia
Hawaii Department of Human Services	Judy Kawano
Hawaii State Coalition Against Domestic Violence	Marci Lopes, Janelle Oishi
Honolulu Police Department	Major Lester Hite, Sgt. Manuel Hernandez
Judiciary, First Circuit Court	Maureen Kiehm, Lepetia Letuli
Victim/Survivor	Toby Kapahu
CSA Project Coordinator	Tony Wong

**APPENDIX C:
Hawaii Revised Statutes (HRS), Chapter 586**

§586-1 Definitions. As used in this chapter:

"Dating relationship" means a romantic, courtship, or engagement relationship, often but not necessarily characterized by actions of an intimate or sexual nature, but does not include a casual acquaintanceship or ordinary fraternization between persons in a business or social context.

"Domestic abuse" means:

- (1) Physical harm, bodily injury, assault, or the threat of imminent physical harm, bodily injury, or assault, extreme psychological abuse or malicious property damage between family or household members; or
- (2) Any act which would constitute an offense under section 709-906, or under part V or VI of chapter 707 committed against a minor family or household member by an adult family or household member.

"Extreme psychological abuse" means an intentional or knowing course of conduct directed at an individual that seriously alarms or disturbs consistently or continually bothers the individual, and that serves no legitimate purpose; provided that such course of conduct would cause a reasonable person to suffer extreme emotional distress.

"Family or household member" means spouses or reciprocal beneficiaries, former spouses or former reciprocal beneficiaries, persons who have a child in common, parents, children, persons related by consanguinity, persons jointly residing or formerly residing in the same dwelling unit, and persons who have or have had a dating relationship.

"Malicious property damage" means an intentional or knowing damage to the property of another, without his consent, with an intent to thereby cause emotional distress. [L 1982, c 123, pt of §2; am L 1987, c 359, §2; am L 1997, c 383, §64; am L 1998, c 172, §1; am L 2000, c 186, §2]

§586-3 Order for protection. (a) There shall exist an action known as a petition for an order for protection in cases of domestic abuse.

(b) A petition for relief under this chapter may be made by:

- (1) Any family or household member on the member's own behalf or on behalf of a family or household member who is a minor or who is an incapacitated person as defined in section 560:5-102 or who is physically unable to go to the appropriate place to complete or file the petition; or
- (2) Any state agency on behalf of a person who is a minor or who is an incapacitated person as defined in section 560:5-102 or a person who is physically unable to go to the appropriate place to complete or file the petition on behalf of that person.

(c) A petition for relief shall be in writing upon forms provided by the court and shall allege, under penalty of perjury, that: a past act or acts of abuse may have occurred; threats of abuse make it probable that acts of abuse may be imminent; or extreme psychological abuse or malicious property damage is imminent; and be accompanied by an affidavit made under oath or a statement made under penalty of perjury stating the specific facts and circumstances from which relief is sought.

(d) The family court shall designate an employee or appropriate nonjudicial agency to assist the person in completing the petition. [L 1982, c 123, pt of §2; am L 1983, c 18, §1; am L 1985, c 136, §1; am L 1987, c 315, §1 and c 359, §1; am L 1997, c 322, §1; am L 2000, c 186, §3; am L 2004, c 161, §31]

§586-4 Temporary restraining order. (a) Upon petition to a family court judge, an ex parte temporary restraining order may be granted without notice to restrain either or both parties from contacting, threatening, or physically abusing each other, notwithstanding that a complaint for annulment, divorce, or separation has not been filed. The order may be granted to any person who, at the time the order is granted, is a family or household member as defined in section 586-1 or who filed a petition on behalf of a family or household member. The order shall enjoin the respondent or person to be restrained from performing any combination of the following acts:

- (1) Contacting, threatening, or physically abusing the protected party;
- (2) Contacting, threatening, or physically abusing any person residing at the protected party's residence; or
- (3) Entering or visiting the protected party's residence.

The ex parte temporary restraining order may also enjoin or restrain both of the parties from taking, concealing, removing, threatening, physically abusing, or otherwise disposing of any animal identified to the court as belonging to a household, until further order of the court.

(b) For any person who is alleged to be a family or household member by virtue of a dating relationship, the court may consider the following factors in determining whether a dating relationship exists:

- (1) The length of the relationship;
- (2) The nature of the relationship; and
- (3) The frequency of the interaction between the parties.

(c) The family court judge may issue the ex parte temporary restraining order orally, if the person being restrained is present in court. The order shall state that there is probable cause to believe that a past act or acts of abuse have occurred, or that threats of abuse make it probable that acts of abuse may be imminent. The order further shall state that the temporary restraining order is necessary for the purposes of: preventing acts of abuse or preventing a recurrence of actual domestic abuse and ensuring a period of separation of the parties involved. The order shall also describe in reasonable detail the act or acts sought to be restrained. Where necessary, the order may require either or both of the parties involved to leave the premises during the period of the order; may also restrain the party or parties to whom it is directed from contacting, threatening, or physically abusing the applicant's family or household members; and may enjoin or restrain both parties from taking, concealing, removing, threatening, physically abusing, or otherwise disposing of any animal identified to the court as belonging to a household, until further order of the court. The order shall not only be binding upon the parties to the action, but also upon their officers, agents, servants, employees, attorneys, or any other persons in active concert or participation with them. The order shall enjoin the respondent or person to be restrained from performing any combination of the following acts:

- (1) Contacting, threatening, or physically abusing the protected party;

- (2) Contacting, threatening, or physically abusing any person residing at the protected party's residence;
- (3) Entering or visiting the protected party's residence; or
- (4) Taking, concealing, removing, threatening, physically abusing, or otherwise disposing of any animal identified to the court as belonging to a household, until further order of the court.

(d) If a divorce or a child custody proceeding is pending, a petition for a temporary restraining order may be filed in that same proceeding to the extent practicable. Any decree or order issued in a divorce or child custody proceeding subsequent to the petition being filed or an order being issued pursuant to this section, in the discretion of the court hearing the divorce or child custody proceeding, may supersede in whole or part the orders issued pursuant to this section. The factual findings and rulings made in connection with the granting or denying of a temporary restraining order may not have binding effect in any other family court proceeding, including child custody determinations under section 571-46, and the court in such proceedings may give de novo consideration to the facts and circumstances alleged in making later determinations affecting the parties, including determination of custody and visitation.

§586-5 Period of order; hearing. (a) A temporary restraining order granted pursuant to this chapter shall remain in effect at the discretion of the court, for a period not to exceed one hundred eighty days from the date the order is granted or until the effective date, as defined in section 586-5.6, of a protective order issued by the court, whichever occurs first.

(b) On the earliest date that the business of the court will permit, but no later than fifteen days from the date the temporary restraining order is granted, the court, after giving due notice to all parties, shall hold a hearing on the application requiring cause to be shown why the order should not continue. In the event that service has not been effected, the court may set a new date for the hearing; provided that the date shall not exceed ninety days from the date the temporary restraining order was granted. All parties shall be present at the hearing and may be represented by counsel.

The protective order may include all orders stated in the temporary restraining order and may provide further relief, as the court deems necessary to prevent domestic abuse or a recurrence of abuse, including orders establishing temporary visitation with regard to minor children of the parties and orders to either or both parties to participate in domestic violence intervention. [L 1982, c 123, pt of §2; am L 1983, c 186, §1; am L 1987, c 315, §3; am L 1992, c 290, §3; am L 1998, c 172, §3; am L 2011, c 85, §1]

§586-5.5 Protective order; additional orders. (a) If, after hearing all relevant evidence, the court finds that the respondent has failed to show cause why the order should not be continued and that a protective order is necessary to prevent domestic abuse or a recurrence of abuse, the court may order that a protective order be issued for a further fixed reasonable period as the court deems appropriate.

The protective order may include all orders stated in the temporary restraining order and may provide for further relief as the court deems necessary to prevent domestic abuse or a recurrence of abuse, including orders establishing temporary visitation and custody with regard to minor children of the parties and orders to either or both parties to participate in domestic

violence intervention services. If the court finds that the party meets the requirements under section 334-59(a)(2), the court further may order that the party be taken to the nearest facility for emergency examination and treatment.

(b) A protective order may be extended for such further fixed reasonable period as the court deems appropriate. Upon application by a person or agency capable of petitioning under section 586-3, the court shall hold a hearing to determine whether the protective order should be extended. In making a determination, the court shall consider evidence of abuse and threats of abuse that occurred prior to the initial restraining order and whether good cause exists to extend the protective order.

The extended protective order may include all orders stated in the preceding restraining order and may provide such further relief as the court deems necessary to prevent domestic abuse or a recurrence of abuse, including orders establishing temporary visitation and custody with regard to minor children of the parties and orders to either or both parties to participate in domestic violence intervention services. The court may terminate the extended protective order at any time with the mutual consent of the parties. [L 1987, c 315, §4; am L 1991, c 235, §2; am L 1996, c 199, §1; am L 1998, c 172, §4; am L 2001, c 295, §1]

§586-5.6 Effective date. The temporary restraining order shall be effective as of the date of signing and filing; provided that if a temporary restraining order is granted orally in the presence of all the parties and the court determines that each of the parties understands the order and its conditions, if any, then the order shall be effective as of the date it is orally stated on the record by the court until further order of the court. Protective orders orally stated by the court on the record shall be effective as of the date of the hearing if the respondent attends the hearing or, if the respondent was served but failed to appear, then upon service of the protective order upon the respondent until further order of the court; provided that all oral protective orders shall be reduced to writing and issued forthwith. The judiciary shall provide forms which will enable the court to issue all temporary restraining orders forthwith. [L 1987, c 315, §6; am L 1992, c 290, §4; am L 2011, c 85, §2]

§586-6 Notice of order. (a) Any order issued under this chapter shall either be personally served upon the respondent, or served by certified mail, unless the respondent was present at the hearing in which case the respondent shall be deemed to have notice of the order. A filed copy of each order issued under this chapter shall be served by regular mail upon the chief of police of each county.

(b) Except as otherwise provided in this chapter or in the order, a law enforcement officer as defined in section 701-118 may use a reliable copy, facsimile telecommunication, or other reliable reproduction of an order issued pursuant to this chapter in lieu of the original order for purposes of this section. Any such copy, facsimile telecommunication, or other reproduction shall be a complete reproduction of the entire original order and may only be transmitted from law enforcement officer to law enforcement officer until served. [L 1982, c 123, pt of §2; am L 1987, c 315, §5; am L 1992, c 290, §5; am L 1993, c 215, §2; am L 1998, c 172, §5; am L 2002, c 123, §1]

[§586-7] Assistance of police in service or execution. When an order is issued under this chapter upon request of the petitioner, the court may order the police department to serve the order and related documents upon respondent and to accompany the petitioner and assist in placing the petitioner in possession of the dwelling or residence. [L 1982, c 123, pt of §2]

[§586-10.5] Reports by the department of human services; court responsibilities. In cases where there are allegations of domestic abuse involving a family or household member who is a minor or an incapacitated person as defined in section 560:5-102, the employee or appropriate nonjudicial agency designated by the family court to assist the petitioner shall report the matter to the department of human services, as required under chapters 350 and 587A, and shall further notify the department of the granting of the temporary restraining order and of the hearing date. The department of human services shall provide the family court with a written report on the disposition of the referral. The court shall file the report and mail it to the petitioner and respondent at least two working days before the hearing date, if possible. If circumstances prevent the mailing of the report as required in this section, the court shall provide copies of the report to the petitioner and respondent at the hearing. The report shall be noted in the order dismissing the petition or granting the restraining order. [L 1987, c 315, §7; am L 1988, c 141, §58; am L 1991, c 141, §3; am L 2000, c 186, §6; am L 2004, c 161, §32; am L 2007, c 108, §1; am L 2010, c 135, §7]

APPENDIX D: Agency Descriptions

Child Welfare Services (CWS), Department of Human Services

Mission, Purpose, and Function:

The primary purpose of the Child Welfare Services Intake Unit is to determine eligibility for services and risk of harm to children in situations involving possible abuse and/or neglect. The Unit receives statewide referrals based on TROs, as well as other Family Court cases, including paternity, divorce, custody, juvenile, and guardianship matters.

Rules and Regulations:

The basis for DHS involvement is mandated under the Child Protective Act, HRS 587A.

Concepts and Theories:

The system of faxed referrals to CWS Intake was originally intended only for TRO documents, as HRS 350.1.1(c) requires that mandated reporters provide an initial oral report followed as soon as possible by a report in writing to the Department.

Administrative Practices:

The CWS Intake Unit operates 24 hours per day to take calls and incoming court documents, with two teams rotating between coverage on calls and processing documents. CWS Intake makes their assessment within four hours of receipt of the referral, checking 9 different data bases using information from the TRO document. Once a determination is made, they will refer to the appropriate service response, which can be “no action” (information only), formal CWS case investigation and services, or referral to one of two triage partners: Voluntary Case Management (VCM) or Family Strengthening Services (FSS). The triage partners are used in moderately high to low risk cases. In cases of mutual TROs, cases may be assigned to CWS by court order or if children are taken into police custody as the parties are unable to identify a mutually agreed upon caretaker. For Calendar Year 2015 in the First Circuit Court (Oahu), there were a total of 371 cases referred to the courts, with the following service distribution: “no action” – 19 cases; FSS – 86 cases; VCM – 153 cases; CWS Investigation– 58 cases; and 55 court-ordered cases (which were determined by the court to require CWS investigations without allowing for the differential response process).

Resources:

Full CWS Intake staffing includes 12 positions, with 6 per team. The unit is currently at 50% filled and 50% vacant, with a number of staff currently in transition.

Linkages:

The VCM program is contracted with Catholic Charities of Hawaii (CCH), and has a staff of 16 case managers, one outreach worker, and 2 clerical assistants. VCM strives for the least intrusive outreach to families; its goal is to engage families on a voluntary basis, with the priority of looking for the protective parent to ensure the child’s safety. The program works to prevent children from being removed from the home, put family into appropriate services, provide support, and identify issues for CWS.

The FSS program is contracted with Parents and Children Together (PACT), and is the lowest level of intervention services referred by CWS. FSS is staffed by a program supervisor, intake counselors, and 9 FSS specialists. Its mission is to strengthen families and empower them with

resources, information, and social support to be successful on their own. The program tends to refer to formalized community family services but also refers to individual therapy.

Accountability:

CWS or one of its triage programs (VCM and FSS) submits a report outlining its recommendation for intervention and services to the court at the OSC hearing. The CWS, VSM and FSS Units sent a representative to the OSC hearings to present testimony if required.

Hawaii Criminal Justice Data Center (HCJDC), Department of the Attorney General

Mission, Purpose, and Function:

The HCJDC is a division under the Hawaii Attorney General, and responsible for managing the statewide adult criminal history information system under the CJIS-HAWAII-Hawaii, the statewide Automated Fingerprint Identification System (AFIS), and the statewide sex offender registry; it also serves as Hawaii's point of contact for the FBI National Crime Information Center (NCIC) system. The CJIS-HAWAII-Hawaii is used by all criminal justice agencies to enter arrest and convictions information. HCJDC provides CJIS-HAWAII data entry access and data search capabilities to the various agencies. The CJIS-HAWAII-Hawaii also stores TRO and protection order information which is automatically sent to the National Protection Order (NPO) File within NCIC which allows law enforcement agencies and other authorized criminal justice agencies through the US, Guam and U.S. Virgin Islands the ability to view information regarding TROs and POs issued in Hawaii. One of HCJDC's utmost concerns is ensuring public safety and that those protected under state law are also protected while in other states.

Concepts and Theories:

The HCJDC has operational procedures that provide data input and confirmation with the court system for validation of information on TROs and POs. The HCJDC is responsible for checking the accuracy of information of the TROs and POs transferred from CJIS-HAWAII-Hawaii to NCIC. The Second, Third, and Fifth Circuit Courts have given permission to HCJDC to correct typographical errors. The First Circuit Court has requested that all changes or corrections be made by their own staff.

Administrative Practices:

Once the court rules on the TRO or PO and it is approved, court staff enters the information into CJIS-HAWAII-Hawaii. The TRO information in CJIS-HAWAII-Hawaii is kept separately from the criminal history data in CJIS-HAWAII-Hawaii. Orders entered and saved in CJIS-HAWAII-Hawaii are electronically transmitted to the NCIC to be added to the NPO File. In order for the TRO record to be sent to NCIC, it must have the date of issue, expiration date, respondent name, sex, race, date of birth, and protective order condition. If one of these data elements is missing or incomplete, it will not be sent to NCIC. An error message is generated by NCIC and sent to HCJDC if it is unable to add the TRO to its system. HCJDC staff monitor all messages received from NCIC.

Linkages:

All county police departments have a Memorandum of Agreement (MOA) with HCJDC that states that they will handle all inquiries on a TRO record from NCIC, 24 hours, seven days a week, for TRO records filed in their respective counties. These inquiries entail NCIC users contacting the police departments to ensure that the person inquired upon is identical to the person identified in the TRO record, that the protection order is still outstanding, and to obtain a decision regarding information pertaining to the terms, conditions, and service of the protection order. All NCIC inquiries must be addressed in a timely manner.

Accountability:

One of the requirements for entry into the NCIC NPO File is that records must be validated. HCJDC must confirm that the record is complete, accurate, and still outstanding or active. HCJDC handles all validations for the NCIC NPO File on behalf of the courts. HCJDC staff validate TRO entries into the NCIC every three months to ensure for accuracy.

Domestic Violence Action Center (DVAC) – ExParte Outreach (ExPO) Program

Mission, Purpose, and Function:

The mission of the ExPO Court Outreach Program is to provide court outreach services to survivors of intimate partner violence or individuals who are involved with criminal cases as witnesses. ExPO will work with those petitioning the Family Court for a TRO through the TRO Unit during both the ex parte review and OSC hearing. ExPO offers support through providing information on family court process and procedures, legal representation via its TRO Clinic, and victim advocacy. ExPO advocates will also provide information, crisis support and referrals to other community agencies.

Concepts and Theories:

DVAC provides services to survivors of intimate partner violence. They will also assist a victim in assessing if a restraining order is in their best interest, and to explore other options, if the restraining order does not work for them.

Administrative Practices:

Outreach with petitioners will commence as the petition is being filed and prior to them leaving the court house. All intimate partner petitions will be assessed to establish victim status, after which the advocate will discuss the OSC process. Advocates will be available after the petition is filed, in the afternoon when petitioners return to find out the TRO application disposition, and at the OSC hearing. If a petition is denied, the petitioner will be referred to the agency and rework the petition application.

Resources:

The ExPO program currently has one supervisor and four advocates, split among the three locations, with the two Family Court sites providing IPV services for survivors. The program is housed in a secure location at the Kapolei Court and also provides services at the Circuit Court in Honolulu on Monday, Wednesday and Friday mornings.

Linkages:

DVAC is under contract with the Judiciary to provide services for the ExPO program. As such, it is working with the TRO Unit to ensure outreach services for victims of intimate partner violence, and is invited to meetings with the Family Court judges on occasions. The agency also works with other domestic violence providers to share information and program services for victims and families.

Training:

EXPO advocates receive a four-day training and on-the-job shadowing for this program, in addition to basic advocacy training, quarterly trainings provided by DVAC, and other domestic violence community training.

Accountability:

EXPO staff must follow written program guidelines developed by DVAC, and enter services and statistical data into the agency's HelpLine database within certain time frames following each activity.

Hawaii Family Law Clinic, dba Ala Kuola

Mission, Purpose and Function:

It is Ala Kuola's stated mission "to assist victims of domestic violence in attaining safety, peace, and healing through a continuum of services through its partners and collaborators" in the community.

Concepts and Theories:

Ala Kuola provides "a safe and non-threatening environment for families and individuals to obtain information and support services relating to domestic violence". It is a nonprofit organization on Oahu that assists in obtaining a TRO through Family Court of the First Circuit. TRO services are open to the general public. The agency does not assess for victim/perpetrator status, and states that it operates as a neutral party.

Administrative Practices:

Ala Kuola conducts intake services throughout the business day by appointment and/or on a walk-in basis at any time. However, for same day filing, the person who is filing a TRO must be at their office no later than 9:15 am. She/he will be provided the petition application for a TRO to complete in her/his own words and will be provided technical assistance in completing the petition. Intake services are conducted one-on-one to ensure the confidentiality of the individual. The documents are then submitted to the TRO Unit at Family Court for a Judge's review and approval.

If approved, Ala Kuola staff will review the petition and court procedures with the petitioner.

Ala Kuola staff will provide copies of the TRO to be held and kept by the petitioner, as well as copies to be provided to the appropriate law enforcement agency. It will be the petitioner's responsibility to pick-up the documents from Ala Kuola's office and drop it off at the appropriate police station in order to have the respondent properly served. If the petition is to be served outside of Oahu, Ala Kuola will assist with providing copies of the documents to the appropriate law enforcement agency where the documents need to be sent to have the other party served.

Linkages:

Though not currently under contract with the Judiciary as a Purchase of Service (POS) provider, the program works exclusively with the TRO Unit to assist in the filing of TRO petitions.

Resources:

Ala Kuola received Grant-in Aid funding from the State Legislature, which paid for 2.5 intake specialists to conduct filings and attend court hearing in TROs, at the time of the interview with agency in March 2015. Currently Ala Kuola receives City and county of Honolulu funding for its TRO processing. The funds cover one intake specialist and the director's coverage of the TRO applications. They do not attend court hearings at this time.

Honolulu Police Department (HPD)

Mission, Purpose and Function:

The Honolulu Police Department (HPD) serves as the primary law enforcement agency for the entire island of Oahu, with jurisdiction over the City and County of Honolulu.

Rules and Regulations:

“The safety of the public and police personnel shall be the primary consideration in serving or enforcing any court order for protection.” (HPD Policy No. 7.09)

Under HPD Policy Number 7.09 relating to Orders for Protection, the Department outlines its policy for the service of TRO and PO from the First Circuit Court and valid out-of-jurisdiction protection orders, enforcement for violation of such orders, and the retrieval of firearms from respondents.

Administrative Practices:

There is a seven-day time frame for the service of TROs, and for HPD officers to document action taken to serve these orders. If service is made, officers submit the Proof of Service documentation to HPD Record & Identification Division, which then enters the data into the Criminal Justice Information System (CJIS-HAWAII). If service is not completed within this period, the assigned officer’s report will be entered into HPD Records as an “attempt to serve”; this information is not entered into CJIS-HAWAII. HPD will continue attempts to serve up until the court hearing date, and inform the court if successful.

Concepts and Theories:

The Department is “committed to the prevention of domestic violence”, all reports of domestic violence are taken seriously, and patrol officers are required to document all incidents of domestic violence (per HPD website).

Resources:

HPD has approximately 2000 officers and 470 civilian employees. The City and County is divided up into eight districts, with five district stations and five district substations, in addition to headquarters in downtown Honolulu. Patrol functions are under either of two Patrol Bureaus (Central and Regional), and the Records & Identification Division comes under the Support Services Bureau.

Linkages:

The HPD Records Division receives TRO information from the petitioner or electronically from the Family Court, and transmits this information to the appropriate station/substation for service and/or enforcement. Proof of Service confirmation is transmitted via entry into the CJIS-HAWAII to the Family Court when action is completed.

Training and Education:

Domestic violence dynamics are addressed in the HRS statutes governing police action, in the Department’s policies and procedures, and in the overall trainings that all officers receive as part of their official responsibilities. At the time of the interview in January 2015, recruits receive approximately four hours of training on the dynamics of domestic violence at the HPD Training Academy. This is followed up by two hours of field training specifically on domestic violence calls. Response and arrest procedures are part of on-the-job training for rookie officers at district level, and there is an overlap of a number of different training areas relating to on-scene response and tactics that will also address domestic violence issues within the general context of their actions. Additionally the Department provides officers with a two hour annual

Recall Call Training on this topic during the year, and Dispatch receives a separate 1 hour training.

Accountability:

The Department is accredited by the Commission on Accreditation for Law Enforcement Agencies, Inc., (CALEA). To earn accreditation, the Police Department had to demonstrate that it is in compliance with more than 400 applicable CALEA standards. To remain accredited, the department must maintain compliance with those standards and undergo a new CALEA assessment every three years. On July 25, 2015, HPD was re-accredited and also achieved a Gold Standard Assessment.

The public may contact a responding officer's supervisor if they feel that there was any inappropriate action to their call for assistance. The Department's Professional Standard Division, as well as the HPD Police Commission, will receive any reports from the public relating to potential misconduct by HPD officers, and investigate and respond to each report. The community and individuals should use the Department's website for additional information.

TRO Domestic Violence Unit, Adult Client Services Branch, Judiciary, First Circuit Court (TRO Unit)

Mission, Purpose and Function:

The mission of the Family Court of the First Circuit is to provide every family, child and individual under its jurisdiction with equal access to fair, efficient, culturally aware and timely justice. It is a court committed to therapeutic and restorative justice within the parameters of the law. The TRO Domestic Violence Unit's stated purpose is to eliminate and deter the occurrence and re-occurrence of domestic violence through court intervention and information, in a process that can be accessed without the assistance of an attorney and without fee.

Rules and Regulations:

HRS, Chapter 586 (*Refer to Appendix D*)

Administrative Practices:

The TRO Domestic Violence Unit's primary objective is to assist applicants in obtaining Family Court protection orders, through the ex parte and Order to Show Cause (OSC) hearing process. There is no victim/primary aggressor assessment in the TRO procedure; anyone who is a family or household member or a state agency as defined in HRS 586-1 to 3 may file an application. The Unit follows specific Family Court policies for the preparation of the petitions by applicants, checking with the CJIS-HAWAII and Hawaii Justice Information System (HAJIS) for cross filing action, and processing the court orders and issuance of documents to the parties. The court officer will also make a referral to CWS as applicable. In addition, the unit will provide petitioners information on the TRO/PO procedure.

Concepts and Theories:

The court officers noted that both they and the Family Court judges must act impartially ("neutral"), and cannot take sides or give preferential treatment to either petitioners or respondents in the TRO/PO process. The Court takes a very strong stance against domestic violence, per its Mission Statement above.

Resources:

The TRO Unit is comprised of one supervisor and six court officers, with three judicial clerks. The unit is located in the Kapolei Court complex. Additionally, on three days per week, one of the court officers provides TRO application services at the Circuit Court in Honolulu.

Linkages:

The TRO Unit supervisor works with the office of the Senior Family Court Judge to develop procedures for processing paperwork, staffing the courts, and making referrals for services to other agencies.

The TRO unit works with HPD in the service of court orders, providing each petitioner with the documents necessary in the service or execution of the TRO, and the judicial clerks transmit the documents electronically to HPD if requested by the Petitioner and an address is provided. The judicial clerks enter the court information to the Hawaii Criminal Justice Data Center for its CJIS-HAWAII-Hawaii immediately following the court issuance of the TRO.

The DHS Child Welfare Services (CWS) Branch will be contacted by the court officer and provided a copy of the petition/court order if the case involves allegations of domestic abuse involving minors. CWS will provide the court with a report that will be entered into the record for OSC hearings. Petitions with a military respondent are faxed to the Hawaii Armed Services

Police (HASP) for military notification, who in turn notify the appropriate chain of command and branch Family Advocacy Program (FAP), as well as to link the respondents and petitioners with FAP services and other military services for families.

**APPENDIX E:
Glossary of Acronyms and Terms**

ACSB:	Adult Client Services Branch
AFIS:	Automated Fingerprint Identification System
ANOH:	Amended Notice of Hearing
DBA:	Does business as
CCH:	Catholic Charities of Hawaii
CFS:	Child and Family Service
CJIS-HAWAII:	Criminal Justice Information System
CSA:	Community Safety Assessment
CWS:	Child Welfare Service
Circuit Court in Honolulu:	First Circuit Court at 777 Punchbowl Street
DART:	Domestic Abuse Response Team
DHS:	Department of Human Services, State of Hawaii
DOH:	Department of Health, State of Hawaii
DV:	Domestic Violence
DVRT:	Domestic Violence Response Team
DVAC:	Domestic Violence Action Center
Ex Parte:	Court review without formal hearing before a judge
ExPO:	Ex Parte Outreach, a program under DVAC assisting in the TRO application process
FAP:	Family Advocacy Program (Military Services)
FC-DA:	Family Court – Domestic Abuse
FSS:	Family Strengthening Services
HJIS:	Hawaii Justice Information System
HASP:	Hawaii Armed Services Police
HPD:	Honolulu Police Department
HRS:	Hawaii Revised Statutes
HSCADV:	Hawaii State Coalition Against Domestic Violence

IPV:	Intimate Partner Violence
LEP:	Limited English Proficiency
NCIC:	National Crime Information Center
NPO:	National Protection Order (File), which the National Crime Information Center maintains protection orders from the States
OSC:	Order to Show Cause
PACT:	Parents and Children Together
PO:	Protective Order (also known as Order of Protection)
POS:	Purchase of Service
Per diem (Judge):	Part-time judge appointed by Chief Justice on “as needed basis” to preside in the District Court or Family Court
Petition:	Formal written request to court for an order of the court
Petitioner:	One who signs and/or files a petition
Proof of Service:	Written confirmation under oath by a process server declaring that there was service of legal documents
Respondent:	Party who is required to answer a petition for a court order to take some action, halt some activity, or obey a court’s direction
Ronald T.Y. Moon Kapolei Courthouse:	Kapolei Court
SSD:	Special Services Detail, a police department tactical response unit for situations relating to firearms and explosives threats
TRO:	Temporary Restraining Order
TRO Maintenance application:	System maintained by Hawaii Criminal Justice Data Center for temporary restraining orders and protection orders granted by the court
TRO Unit:	Work division under ACSB assigned to handle petitions for domestic violence protection/restraining order applications
VAWA:	Violence Against Women Act
VCM:	Voluntary Case Management