

***CALIFORNIA
PROTECTIVE
PARENTS
ASSOCIATION***

www.protectiveparents.com

Karen Anderson, Executive Director

Certified Mediator in accordance with the California Dispute Resolution Programs Act

Certified Domestic Violence/Sexual Assault Counselor by Office of Criminal Justice Planning Standards

Date: Nov. 22, 2002

To: Attention: Victoria Henley
Commission on Judicial Performance
455 Golden Gate Avenue, Suite 14400
San Francisco, CA 94102-3660

Re: Request for Meeting on December 11th

Dear Ms. Henley,

We, the directors of several state wide agencies that advocate for victims of family violence, have come together to address the serious and escalating problem in California's family law courts, of a lack of protection for women and children who are victims of family violence. We have requested a meeting with you on December 11, 2002. Those who will be attending are: Ellyne Bell, director of the California Alliance Against Domestic Violence, Helen Grieco, director of California National Organization for Women, Karen Anderson, director of California Protective Parents Association, Dr. Kathie Mathis, director of the Domestic Violence Center of Santa Clarita Valley, and Linda Berger, director of the Southern California Coalition for Battered Women.

The purpose of the meeting requested is to discuss how the Commission on Judicial Performance can promote protection for victims of family violence in our courts through effective and timely disciplinary procedures. Currently it takes approximately two years for a judge to be disciplined and that discipline is ineffective to remedy egregious conduct and unethical decisions made by judges that place victims in danger.

In particular, family court judges have wide discretion and may mis use that discretion at great cost to the lives of vulnerable children. Appeals in child custody cases are useless due to the high cost, and consistent rulings by appeals judges that uphold the lower court discretionary decisions.

We believe in many egregious cases in which victims of family violence have not been protected, the judges have simply violated the law. For example, judges may accept a child custody evaluation into evidence without stipulation of the parties, and without complying with the law that requires the parties to be served with the evaluation at least 10 days before a hearing. Untimely acceptance of an evaluation report prohibits a parent who objects to the report from having adequate time to read, absorb, gather evidence of error, and prepare an competent objection to the report, thus violating the parent's due process right to protect his or her interest in the custody of the child. Untimely acceptance of a report is not a matter of discretion, but is a clear violation of law, warranting disciplinary action by the Commission.

Likewise when parties bring a case to court, a judge is required by law to abstain from forming and stating an opinion on each party's position without first hearing the evidence. We have encountered hundreds of cases in which judges behave in a clearly biased manner by automatically assuming, prior to hearing evidence, that a victim of family violence is fabricating allegations of abuse for some ulterior motive. This bias then infects the entire case, and any allegation of abuse is ignored, suppressed, or dismissed as not credible. Worse yet, the judge may use bias toward an allegation of family violence to behave punitively toward the victim. Each of our organizations has been receiving increasing reports of fit mothers losing custody of their children when they ask the family court to protect themselves or their children from an abusive former partner. Bias in these cases is undeniable.

The 1996 Judicial Council Report on Gender Bias in the Courts confirms the prejudicial and biased attitudes of judges toward women who ask for protection in our family courts. The problem therefore, has been identified and recognized by the agency that oversees the administration of justice in our state. This problem has also been identified and recognized by the National Council of Juvenile and Family Court Judges in its 1999 Custody and Visitation Report to the United States Department of Justice. The problem needs a solution. We believe the Commission on Judicial Performance can help with the solution through more rigorous disciplinary action against judges who demonstrate bias and violate the law at the expense of victims.

We would like to discuss with you:

- The process and time frames of how a complaint against a judge is handled from receipt to closure

- The most effective way a citizen can be assured a complaint is given adequate review
- How the Commission distinguishes discretion, violation of law, and violation of constitutional rights in the disciplinary process

- How the Commission determines bias in the disciplinary process

- How we, as organizations dedicated to the protection of victims of family violence, may assist the Commission through trainings, in recognizing judicial bias in cases involving family violence

- Legislative ideas for "beefing up" the Commission's ability to effectively discipline judges

I will look forward to hearing from you after receiving this requested letter.

Sincerely,

S/

Karen Anderson