

# CRIME PREVENTION REVIEW

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The CRIME PREVENTION REVIEW is a professional forum for the Criminal Justice System in California designed to provide discussion of varied concepts and issues of crime prevention and useful resources for the practitioner in the field.

The Attorney General's office does not necessarily endorse opinions set forth in signed contributions or the listed training programs and resources.

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# Conciliation Court: Crisis Intervention in Domestic Violence

Murray Bloom

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## INTRODUCTION

By  
Norbert Ehrenfreund \*

One afternoon last summer I had returned to chambers for a recess from the family law calendar when the bailiff told me a delegation of women was waiting to see me. I had no idea what they wanted, but asked them in. As they filed by, about ten in all, I recognized some as leaders of the San Diego community in various disciplines related to family problems. They included attorneys, family counselors and social workers. One other man, Murray Bloom, Director of Counseling Services of the Conciliation Court, was also present. The women appeared determined and got right down to business.

They pointed out that all of us involved in the justice system had been waiting too long to face the problem of domestic violence and that the results of this apathy—lives ruined, families broken up, the detrimental effects on children, the injuries and homicides to police officers investigating family fights—were disastrous. They pointed out that there existed no adequate remedy in the law for the battered wife, particularly one who wanted to try to keep the family together, since the only legal remedies were (1) the filing of a criminal complaint, or (2) filing for dissolution, separation or nullity of the marriage.

I could not help but agree with what these women leaders of the community were saying to me that afternoon. As presiding judge of the family law and motion court for seven months, I had been stunned by the prevalence of domestic violence. Before taking the bench in that court, I had no idea

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how widespread this situation was. My daily calendar covered at least fifty dissolution cases a day. In about half of those cases, domestic violence was involved.

But was there anything I could do? I was a judge, not a legislator. I could not change existing law to provide remedies that did not exist. The attorneys in the group were ready for that reply. They had carefully researched the subject and were convinced that a remedy could be provided without changing the law by applying existing sections of the conciliation court law, i.e., Code of Civil Procedure, Sections 1730 through 1772. I reviewed those sections again with them and decided they had a point. The existing conciliation court law appeared sufficient to authorize a type of court action we had never taken before; that is, upon proof by declaration that a wife had been battered by her husband (or a husband battered by his wife for that matter), the court would issue a temporary restraining order against the violator with two prongs to the order: (1) The batterer would be restrained by the court from further violence, and (2) both husband and wife would be ordered to attend at least one counseling session with a conciliation court counselor. There would be no requirement for any attorney or any fee. Refusal to comply could result in contempt of court proceedings. We decided to initiate the program as a 90-day experiment which would be continued thereafter if the judges of our court approved, and if the pioneer project proved successful. I promised to do everything I could to help.

In the following weeks, as the program got underway, we began receiving phone calls and letters from across the state and from various other states inquiring about this new procedure. The word was spreading very quickly. I had no idea that our new procedure was unique, but the inquiries indicated that it probably was. The procedure was set up and administered by Murray Bloom, whose administrative ability made the program work. I asked him to keep accurate and thorough records because I was well aware that judges in other jurisdictions would be watching. He describes what occurred in the following article.

### INTRODUCTION

Until the San Diego County Conciliation Court initiated its Domestic Violence Program in September of 1977, there was no legal remedy available for victims of domestic violence who were seeking protection and counseling for the family unit. There was the availability for the battered spouse to file criminal battery charges, but much reluctance existed in the victim for various reasons. Law enforcement officials and city attorneys are aware of the great frustration they experience when a battered wife asks for help, including the arrest of the battering husband, promises to file a written complaint, but either does not follow through or becomes an uncooperative witness.

The second existing aid for the battered spouse was to file for a dissolution of the marriage, legal separation, or nullity of the marriage. Again, the victim wished to not pursue this course of action for various reasons, including love, security, fear of the unknown, or sincere hope that the problems might be resolved with help and the family unit could be kept intact.

### *Authority of the Conciliation Court*

Section 1760 of the California Code of Civil Procedure states:

*Whenever any controversy exists between spouses which may unless a reconciliation is achieved, result in a dissolution or annulment of the marriage or in a disruption of the household, and there is any minor child of the spouses or of either of them whose welfare might be affected thereby, the Conciliation Court shall have jurisdiction over the controversy, and over the parties thereto and all persons having any relation to the controversy as further provided in this chapter.*

Either party in the marriage may ask for the assistance of the Conciliation Court prior to or after the filing of a dissolution action of a marriage. The Conciliation Courts, interestingly, are the only counseling services providing marriage and family counseling in the state with the authority to insist upon the appearance of the reluctant spouse. Our experience shows us that it is an excellent "out" for the reluctant male who feels that it is a sign of weakness to seek help in a troubled marriage.

Section 1761 of the California Code of Civil Procedure states that spouses may petition to invoke jurisdiction of the Conciliation Court:

*Prior to the filing of any proceedings for dissolution of marriage, legal separation, or judgment of nullity of a voidable marriage, either spouse, or both spouses, may file in the Conciliation Court a petition invoking the jurisdiction of the Court for the purpose of preserving the marriage by effecting a reconciliation between the parties, or for amicable settlement of the controversy between the spouses, so as to avoid further litigation of the issue involved.*

### **CONCILIATION COURTS ARE NOT IN THE BUSINESS TO MAKE PEOPLE STAY MARRIED**

It should be noted that Section 1761 reads: "or for amicable settlement of the controversy between the spouses." The Conciliation Court exists to assist the parties in objectively evaluating their situation, identifying their problems, and doing something about them with professional help. Frequently, we see our job as successful, if we have assisted the parties in recognizing that to continue a sick marriage that is not curable is not in their best interests. They make those decisions, we do not.

### **DOMESTIC VIOLENCE—A SYMPTOM OF A SICK RELATIONSHIP—A CONCERN FOR OUR COMMUNITY**

Our San Diego experience and the literature available to us has shown us that very little is known about the numbers in our community or country. Estimates vary from four million families in our country to forty million, where violence in various degrees occurs between the family members. Violence may be a simple slap to a serious situation where bones are broken, eyes are knocked out and deaths occur. F.B.I. statistics indicate that more law enforcement officers are killed responding to domestic disturbance calls than most other calls.

In many families where domestic violence has occurred, an examination of the dynamics of the relationship and of the individual parties shows there are serious emotional problems within the unit, and that violence is merely a symptom of these emotional problems, a way of responding to the frustrating elements of life with which we all must deal.

## THE SAN DIEGO CONCILIATION COURT DOMESTIC ANTI-VIOLENCE PROGRAM

A victim of domestic violence may contact the Conciliation Court by telephone and arrange for a preliminary interview. Pursuant to the code under which we exist, if the party (1) is married, (2) has children in the family residence whose welfare may be affected by the domestic controversy, and (3) is interested in pursuing counseling for the problem, the counselor will assist the party in evaluating the emotional aspects of the case and discuss immediate assistance. Referral may be made to the Battered Women's Project of San Diego County or the Underground Railroad for Battered Spouses whereby she may immediately be removed from the home with the children and placed into a friendly home away from the battering husband if the fear of continued violence exists. The paralegal of the Conciliation Court will assist the party in developing a declaration to the judge of the Conciliation Court outlining the fact that the violence has occurred, giving examples and dates, and requesting the assistance of the court by temporary restraining order and an order for counseling in the court.

The above party is one who has no legal representation. If a party is referred by an attorney, the attorney will draw up the declaration and order for the judge of the Conciliation Court (please see pages 25 and 26 for a sample declaration and order.)

Upon acceptance of the declaration and petition for conciliation, the judge of the Conciliation Court may sign the order as recommended by the counselor, the petitioner having met the above listed requirements, and the court will submit the appropriate papers for service to the sheriff's office. The charge by the sheriff's office for such service is \$8.50 which the client must pay unless unable to do so. If the client is unable to do so, it will be done for free. If the client is represented by an attorney, the attorney will arrange for service.

On the temporary restraining order and order to report for counseling, is contained the date of the Conciliation Court conference. Approximately one week after the petition is received and the order has been delivered to the sheriff's office, a letter is sent by the Conciliation Court (see page 27) which explains the situation to the respondent-battering spouse. The letter is meant to have an explanatory effect, somewhat of a softening effect, but still expressing the authority of the court along with an invitation to the party to call for further information.

During the conference, which may be approximately one and one-half hours, the parties are encouraged to express their feelings, explore alternatives, and are encouraged to pursue on-going counseling to overcome the problems which have led to the violence in the family.

Since our Conciliation Court is not intended nor staffed to do on-going counseling, we may initially see the parties one or two times, and refer them to a community agency on our approved list for on-going counseling. When this is done, a follow-up conference is set in the Conciliation Court for approximately two months after the referral to the other agency. The purpose of the follow-up conference is to see to it that the parties are continuing in a program of help and/or that they may have made a decision to terminate

the marriage and are receiving assistance to "close the book gently."

In all cases, the Conciliation Court places much emphasis on the effects of the marital situation on the children. In cases where a temporary separation is effected, the Conciliation Court assists the parties in developing a trial visitation plan with the understanding that although the parents may be at war, the children have a psychological need and right to continue a decent relationship with both parents.

Frequently when parents dissolve a marriage, one of the parties may feel that the respective non-custodial parent has no right to a relationship with the children, "I am divorcing you and they're my children." The Conciliation Court does not agree, unless the continuing relationship of the children with that parent may be destructive.

### OTHER REMEDIES

California Code of Civil Procedure Section 527(b) states:

*A temporary restraining order may be granted with or without notice to restrain any person upon an affidavit which, to the satisfaction of a court, shows reasonable proof of a past act or acts of actual violence resulting in physical injury for the purpose of preventing a recurrence of actual domestic violence and assuring a period of separation of the parties involved. A temporary restraining order may be granted pursuant to this subdivision to any person who, prior to or at the time such order is granted, was actually residing with the person or persons at whom such order is directed, and, in the case of a marital relationship, notwithstanding that a petition for legal separation or annulment or dissolution of marriage has not been filed.*

*A temporary restraining order granted pursuant to this subdivision shall remain in effect, in the discretion of the court, not to exceed 30 days, unless otherwise terminated by the court.*

*In case a temporary restraining order is granted without notice, the matter shall be made returnable on an order requiring cause to be shown why the order should not be dissolved, on the earliest day that the business of the court will permit, but not later than 15 days or, if good cause appears to the court, 20 days from the date the temporary restraining order is granted.*

*Any willful disobedience of any temporary restraining order granted pursuant to this subdivision shall be a misdemeanor.*

*The county clerk shall transmit a copy of each temporary restraining order, or extension, modification or termination thereof, granted pursuant to this subdivision, by the close of the business day on which such order was granted, to the local law enforcement agency with jurisdiction over the residence of the party which obtained the restraining order or the residence at which the recurrence of actual domestic violence is the subject of the temporary restraining order, if requested by an attorney of record or a person who acted in propria persona and approved by the court. Each appropriate law enforcement agency may make available, through*

*an existing system for verification, information as to the existence and current status of any temporary restraining order issued pursuant to this subdivision to any law enforcement officer responding to the scene of reported domestic violence.*

The above code is not related to the Conciliation Court program in any way, and may be used by parties with or without children, whether or not a marriage exists, and may even be used in a domestic homosexual relationship.

In the San Diego Conciliation Court, we have made suggestions as we believe have been made in other jurisdictions, that when a party files for a temporary restraining order pursuant to 527(b), the judge, if he feels the parties qualify for Conciliation Court services, may order the parties to the Conciliation Court pursuant to Conciliation Code.

### CONCLUSIONS

We can only conclude from the short time we have been zeroing in on such cases that the task is great, not only the responsibility of the courts and law enforcement agencies, but the entire community. We see the need for shelters for victims and children of domestic violence with professional and peer counselors available in such shelters. We see the need for other treatment agencies in the community for gaining knowledge and developing programs especially geared to families of domestic violence. We also see the need for the legal profession to become more involved and knowledgeable of the psycho-dynamics of such cases, and most of all we see the need of forums for police and courts and mental health workers to gather and share information which will assist us in working together to assist the family—the basic building block of our society—to regroup.



## (Sample Declaration)

Attorney for Petitioner, In Pro Per

SUPERIOR COURT OF THE STATE OF CALIFORNIA  
FOR THE COUNTY OF SAN DIEGO

In re the marriage of )  
 )  
 Petitioner: JANE DOE ) CONCILIATION COURT NO. \_\_\_\_\_  
 )  
 ) DECLARATION OF JANE DOE IN  
 and ) SUPPORT OF TEMPORARY RESTRAIN-  
 ) ING ORDERS AND COUNSELING  
 Respondent: JOHN DOE )

I, JANE DOE, declare and state as follows:

That I am the Petitioner in the above-entitled action. I have been married to Respondent, JOHN DOE, since August 5, 1967. I have two minor children of this marriage, BRIAN DOE, born May 7, 1972 and KATHY DOE, born September 24, 1974.

That on August 21, 1977 Respondent, for no stated reason began to punch me in the arms, chest and around the face. He told me I better not be seeing another man, and if I did he would kill us both. I was pretty bruised after this incident, including a black left eye, a sprained left wrist and bruises on my arms and chest area where Respondent tried to make me ugly for other men. During this time Respondent called me a lot of dirty names. I was too embarrassed to seek the attention of a physician.

That on September 12, 1977 Respondent and I were driving with our children to his mother's house. As we were driving north on Interstate 5 Respondent started yelling that I had better behave in front of his mother and not say anything he did not want me to say. The next thing I knew, he had his fist placed squarely in my left cheek and was pressing my head against the car door window. Respondent then began to punch me in the cheek, yelling the whole time that I had better behave as a "good wife" would behave. Respondent became so upset he almost ran the car off the freeway. My cheek was sore for the next few days.

That on September 17, 1977 Respondent became very angry with me. He threw me up against the refrigerator, grabbed me around the neck and started choking me. At this time he yelled that he wished I was dead. The incident occurred in front of our minor child, BRIAN.

That the above-mentioned incidents of violence are not the only ones Respondent has displayed against me. This kind of violence has occurred for the past four years. When Respondent becomes violent against me I fear for my life. I also fear for the well-being of my two children as I do not want them to witness nor be hurt by these attacks. I still love Respondent but strongly feel that without some marital counseling our marriage will not last.

That if Respondent is not restrained and enjoined from annoying, molesting, attacking, striking, battering or harassing me he will continue to do so. These continued attacks will lead to the break up of our marriage.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this \_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, in San Diego, CA.

---

JANE DOE, Petitioner

(Sample Temporary Restraining Order)  
IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA  
IN AND FOR THE COUNTY OF SAN DIEGO

In re the marriage of )  
Petitioner ) CONCIILIATION COURT  
and ) NO. \_\_\_\_\_  
Respondent \_\_\_\_\_ ) ORDER GRANTING TEMPORARY  
RESTRAINING ORDERS AND  
RE COUNSELING

The Conciliation Court having been petitioned by \_\_\_\_\_ to provide means toward an amicable settlement of the parties' domestic controversy and to provide protection for Petitioner and the children in the household during the pendency of this matter, and good cause having been shown, pursuant to Sections 1760-1769 and Section 527, California Code of Civil Procedure,

IT IS HEREBY ORDERED: That the Respondent shall be restrained and enjoined from annoying, molesting, attacking, striking, battering, or harassing the Petitioner and other household members.

IT IS FURTHER ORDERED: That both parties in this matter shall appear for counseling in the offices of the Conciliation Court, Suite 1301, Charter Oil Building, 110 West "C" Street, San Diego, California, 92101, on \_\_\_\_\_ at \_\_\_\_\_ M.

IT IS SO ORDERED

Dated: \_\_\_\_\_

\_\_\_\_\_  
Judge of the Conciliation Court

\_\_\_\_\_  
Court Counselor

NORBERT EHRENFREUND  
SUPERVISING JUDGE

BYRON F. LINDSLEY  
SUPERVISING JUDGE

## The Conciliation Court

MARRIAGE AND FAMILY COUNSELING SERVICES  
SUPERIOR COURT - COUNTY OF SAN DIEGO  
SUITE 1301, CHARTER OIL BLDG.  
110 WEST C STREET  
SAN DIEGO, CALIFORNIA 92101  
236-2601

MURRAY BLOOM  
DIRECTOR  
COUNSELING SERVICES  
-----  
ASSOCIATE COUNSELORS  
LEO L. KORAN  
EVELYN SPALDING  
RUTH ROTH

Dear

By now you have been served an order signed by the Judge of the Conciliation Court restraining you from committing any acts of violence upon your spouse and ordering you to appear in the Conciliation Court counseling offices.

The purpose of the Conciliation Court's Domestic Violence Program is to provide families with the opportunity to work on their problems constructively rather than committing acts of violence in their frustration and/or inability to deal with these problems.

We understand that the reasons Mr./Mrs. \_\_\_\_\_ has petitioned the Conciliation Court for services include his/her desire to work toward a mutually acceptable resolution of the problems and hopefully preserve the marriage. During your conference in the Conciliation Court, you will meet with a Family Counselor who is concerned with providing both of you the opportunity to express your feelings and constructively work at developing a settlement to this controversy that has caused unhappiness and violence that has been reported to the Court in this matter.

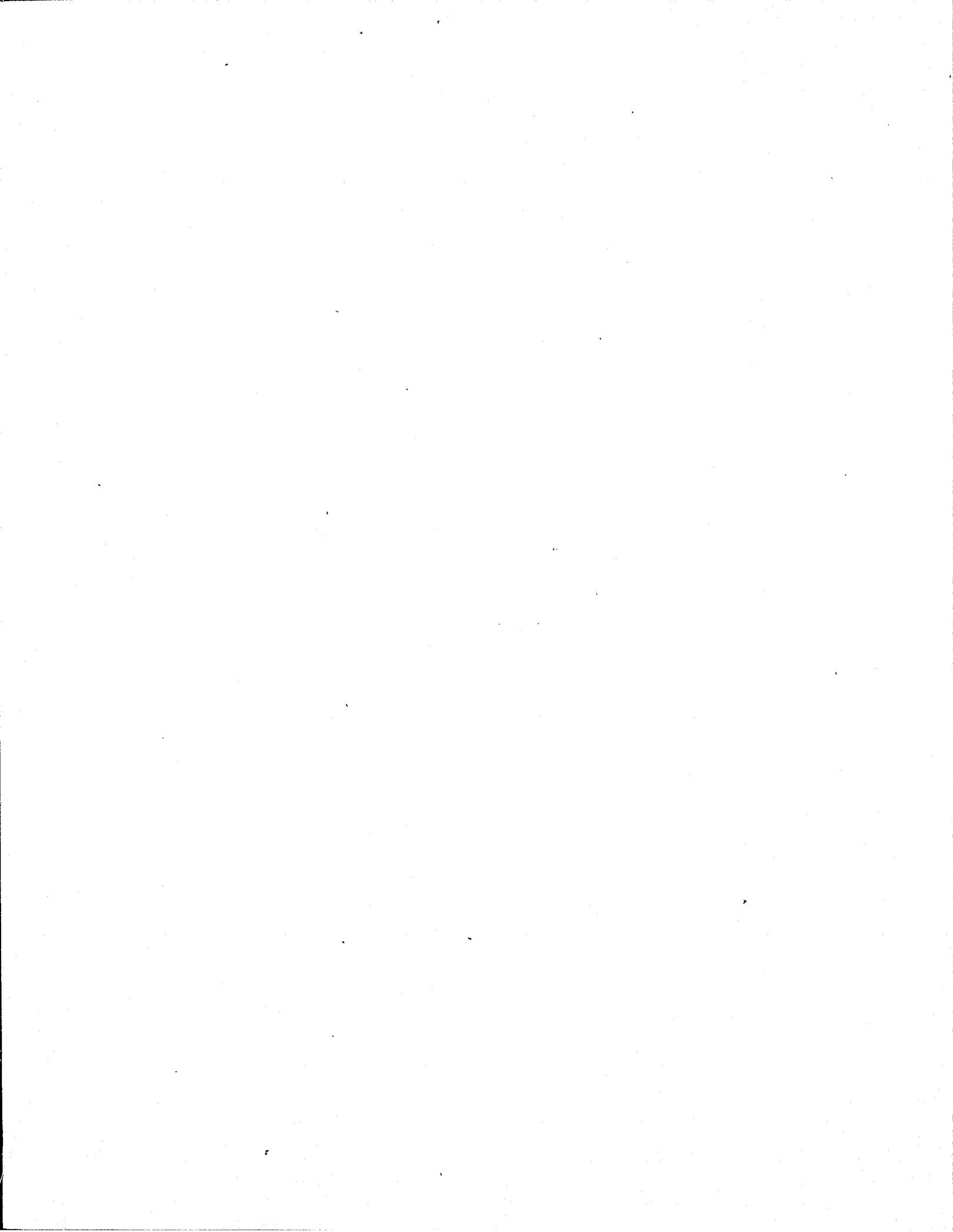
We look forward to seeing you as ordered and hope that you will cooperate in the Court's efforts to avoid any further family disruption or contempt citation against you.

If you have any questions prior to the scheduled conference, please feel free to call the Conciliation Court.

Very truly yours,

MURRAY BLOOM  
Director Counseling Services

MB:lr



**END**