

Domestic Violence Compliance Court vs Treatment Courts

Part 1

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OH Specialized Dockets Conference

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Learning Objectives

As a result of this session, you will be better able to:

- ▶ Define what a domestic violence court is and describe the key elements of this model;
- ▶ Discuss the variety of modalities, polices and practices that exist among domestic violence courts; and,
- ▶ Explore ways treatment courts and domestic violence courts can enhance response to domestic violence across all populations.

Domestic Violence Courts

- ▶ Approximately 250+ domestic violence courts in the United States
- ▶ Represents more than 27 states
- ▶ More than 150 domestic violence courts internationally
- ▶ A diversity of models, policies, and practices

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Domestic Violence Courts Promote



An engaged judiciary



Coordination between courts and stakeholders



Improved **victim safety**



Identifying offender risk and needs



Offender accountability



Improved information sharing between agencies where appropriate



Evaluation

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Models Around the Country



Municipal/
Misdemeanor
Domestic
Violence Court

Integrated
Domestic
Violence Court



Civil Domestic
Violence Court

Felony
Domestic
Violence Courts

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Civil Domestic Violence Court Components

- Dedicated docket/judge/court staff
- Connecting litigants to victim advocacy services and legal services
- Coordinating civil protective orders with criminal cases
- Communication with supervised visitation and exchange programs
- Compliance reviews and offender accountability
- Coordinated Community Response
- Specialized training

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Criminal Domestic Violence Court Components

- Dedicated docket/judge/court staff
- Connecting litigants to services
- Dedicated victim advocate on-site
- Compliance monitoring through compliance review calendars
- Coordinated Community Response
- Specialized training

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Integrated Domestic Violence Court Components

- One judge, one family (civil and criminal matters)
- Consistent handling of all matters, regardless of case type
- Concentration of social services for litigants
- Concentration of legal services for litigants
- On-site victim advocacy
- Honoring case integrity
- Coordinated Community Response
- Specialized training

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Research Supports Court-Based Responses to Domestic Violence



Improves victim linkages with victim services



Increases cooperation with the criminal justice process



Some studies show reduced recidivism



Increased accountability including conviction, probation, offender program attendance and compliance



Improved victim satisfaction

OVW Domestic Violence Mentor Courts

What Are Mentor Courts Doing?

Information Sharing

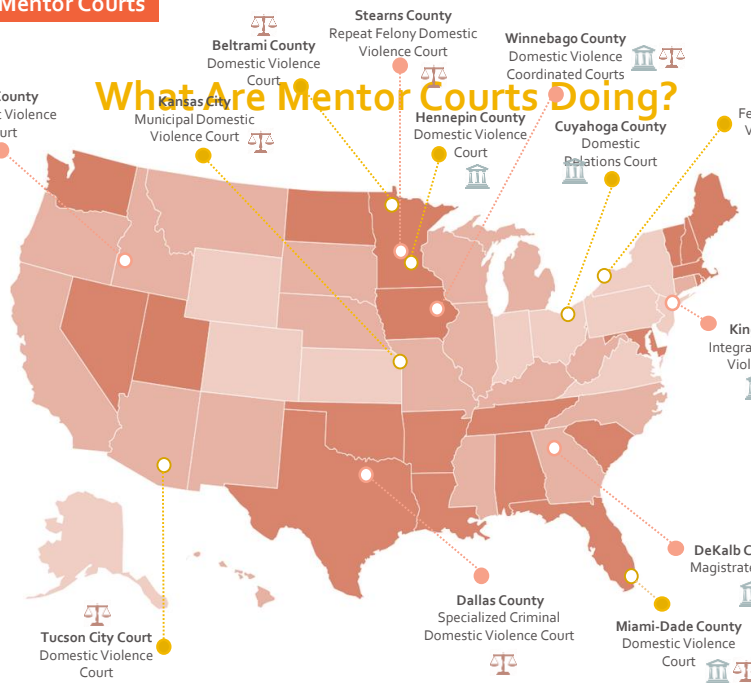
Civil Compliance
Criminal

Risk Assessment

Underserved Communities

Cross Agency Collaboration

Victim/Offender Services



Kansas City Municipal DV Mentor Court



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AT A GLANCE

- TYPE of COURT & JURISDICTION
 - GOALS OF DV DIVISION
-

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Nuts and Bolts: Staff

DOMESTIC VIOLENCE DIVISION

- ▶ Domestic Violence Court Judge
- ▶ Non-judicial Staff
- ▶ Court Security
- ▶ Case Management
- ▶ Court Interpreters

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Nuts and Bolts: Case Management

- ▶ Case types
- ▶ Case identification, screening, and transfer:
- ▶ Specialized tracks: Drug
- ▶ Information Sharing
- ▶ Schedule

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Nuts and Bolts: Offender Accountability

- ▶ Offender Services
- ▶ Compliance reviews
 - Sanctioning Grid

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Nuts and Bolts: Victim Safety

- ▶ Court security
- ▶ Victim Services/Advocates
- ▶ Risk Assessment

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Nuts and Bolts: Community Stakeholders and Communication

- ▶ Frequency of stakeholder meetings
- ▶ Compliance Calendar Information
- ▶ On-going problem solving

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Nuts and Bolts: Legal Services

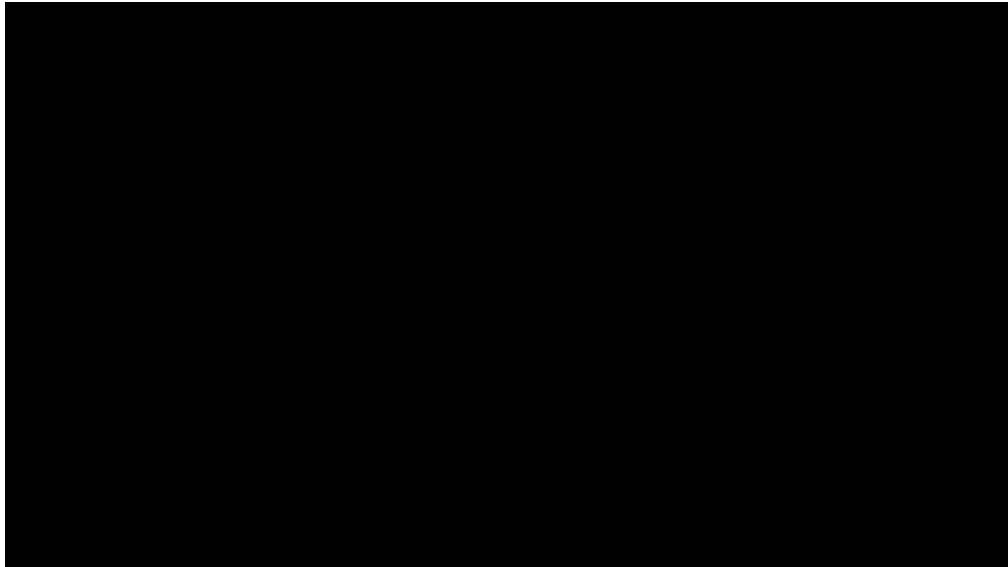
- ▶ Legal Aid of Western Missouri – victim and offender

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Coordinated Community Response and Courts

Examples from other Mentor Courts

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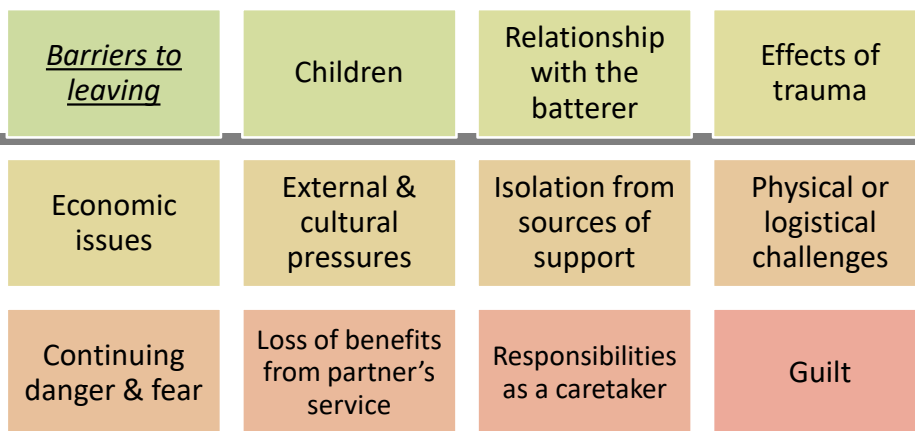


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Victim Safety Considerations in DV Cases

- ▶ Relationships with local domestic violence advocates
- ▶ Training in risk and lethality assessments
- ▶ Ability to consistently exchange information with other courts involving the same family
 - ▶ Inconsistent orders
 - ▶ Prior orders of protection
 - ▶ History of abuse
- ▶ Training on coercion and manipulation: common patterns of violence and attempted reconciliation often involve empty promises to seek treatment and rehabilitate
- ▶ Access to other victim-centered supportive services/FJCs

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**Key Considerations:
Barriers for Victims**

Domestic Violence Courts: Victim Safety

- ▶ More effective protective orders, including focus on firearms law implementation
- ▶ Understanding the services offered in community
- ▶ Have resources for victims available → hotline numbers, pamphlets, on-site advocate
- ▶ Courthouse Safety
- ▶ Information sharing where possible between agencies
- ▶ Understanding risk factors

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Responding to Intimidation

- ▶ Provide a safe waiting area for complainants to minimize contact with defendants
- ▶ Monitor defendants for any intimidating behavior in the courtroom (inc. nonverbal) → put on the record
- ▶ Encourage DV training for ALL staff, including security personnel
- ▶ Seek sanctions for violations of OPs, including stalking, phone calls & sending messages through children

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Responding to Minimization, Denial & Victim Blaming

- ▶ Address alcohol/drug abuse as a co-existing problem but not the *cause* of abuse
- ▶ Emphasize defendants' sole responsibility for their criminal behavior even if victim disengages
- ▶ Ask for a detailed allocution
 - ▶ Review the charges & ask the defendant to give specifics of crimes committed
- ▶ Establish a reporting system with mandated programs & Probation
- ▶ Risk Assessment

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Domestic Violence Courts: Accountability and Informed Decision-Making

- ▶ Defendant assessment and placement
- ▶ On-going monitoring
- ▶ Intensive supervision/probation
- ▶ Reports from victim advocates (with victim consent)
- ▶ Reports from offender programs
- ▶ Technology systems can help

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Key Principles Judicial and Court Staff Training

- Dedicated court stakeholders
- Training on:
 - Operational matters
 - Domestic violence dynamics
 - Impact of domestic violence on children

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Key Principles Community Partner Involvement



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Key Considerations: Substance Abuse and IPV

- ▶ Substance abuse does not cause domestic violence, however there is some correlation.
- ▶ 25%-50% of men who commit acts of domestic violence also have substance abuse problems. [Gondolf, 1995; Leonard and Jacob, 1987; Kantor and Straus, 1987; Coleman and Straus, 1983; Hamilton and Collins, 1981; Pernanen, 1976]
- ▶ Often, victims and perpetrators blame the substance abuse for the violence; may mask patterns of coercive control.

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Key Consideration: Collaborating with Victim Advocates

- ▶ Victims should be contacted by DV advocates.
- ▶ Get to know your local DV service agency and make a plan (*also DV/IDV court resource coordinators*).
 - ▶ Have a contact for referrals
 - ▶ DV service agency can figure out appropriate protocol for victim contact
 - ▶ Understand advocate's confidentiality obligations

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Specialized Court Models: At a Glance

**Connecting Court
Participants to
Resources**

**Promoting
Offender
Accountability**

**Trained
Court Staff**

**Screening &
Identification of
Cases**

**Treatment Courts (Drug, MH, Veterans, Family
Drug, DUI)**

- Coordination with Treatment Providers
- Focus often on sobriety

Domestic Violence Courts (DVCs)

- Victim Services
- Coordination with other courts (family/civil)
- Coordinated Community Response
- DV Risk and Lethality Concerns

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Questions and Discussion

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Thank you!

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AT A GLANCE

Location of Court

Kansas City, Missouri

Type of Court

Criminal Domestic
Violence Court

Project Goals

- Enhance victim safety
- Ensure offender accountability
- Respond with a holistic approach to address offenders' needs

KANSAS CITY MUNICIPAL DOMESTIC VIOLENCE COURT

Kansas City, Missouri Municipal Court, Division 203, has exclusive jurisdiction over all domestic violence ordinance violations that are filed within the Kansas City limits. These cases are criminal in nature and carry a range of punishment of up to six months in jail.



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This fact sheet is part of a series describing Domestic Violence Mentor Courts. Selected by the Office on Violence Against Women, Mentor Courts share their expertise and assist other domestic violence courts in implementing promising practices and procedures, and building the capacity of state court systems to respond effectively to these difficult cases.

COURT STAFF

- **Domestic Violence Court judge**
- **Offender accountability coordinator:** supervises the high-risk domestic violence offenders while on probation and ensures that they are held accountable throughout their probation term; coordinator also reports to the judge on the offender's progress and assists with victim safety
- **Domestic Violence prosecutors:** two prosecutors designated to handle all domestic violence cases in all phases of prosecution, including trials, pleas, probation violations, and compliance docket review/staffing
- **Integrated domestic violence court compliance docket prosecutor**
- **Other project partners:** community agencies provide services for litigants in the Integrated Domestic Violence Court for both criminal and civil cases; Service providers include domestic violence advocates [domestic violence (offender) programs], legal services agencies, parenting skills programs, substance abuse programs, mental health programs, veteran's services, and supervised visitation programs

CASE MANAGEMENT

Types of cases: Domestic Violence Court, Division 203, handles all domestic violence-categorized criminal municipal ordinance violations, including intimate partner violence, child abuse, child endangerment, violations of protective orders, stalking, and violence between family members.

Case identification, screening, and transfer: All cases filed in the Municipal Court that fall under the types of cases mentioned above are either originally filed in Division 203 or are ultimately transferred to that division upon determination that they are eligible for the Domestic Violence Court.

Information sharing: The offender accountability coordinator receives regular compliance reports from mandated programs via verbal correspondence with providers. This information is shared with the judge and prosecutor during compliance docket staffing. The reports are also shared with defense counsel when they are appointed or retained (counsel is generally appointed if the city is seeking probation revocation). Furthermore, the victim advocate working with compliance docket victims can share information with the offender accountability coordinator as needed.

Schedule: Domestic violence cases are heard Monday through Friday at 9:00 am. The compliance docket meets Tuesdays at 2:30 pm. Staffing meetings for the compliance docket being at 1:00 pm on Tuesdays. There is a life skills class for compliance docket offenders that begins at 1:30 pm on Tuesdays, prior to the compliance docket call. This class discusses current events or non-domestic violence curriculum that pertains to the cycle of violence. Topics of discussion have included gun violence, coping skills, the effect of media portrayal of women on society, etc. Probations violations for offenders that are not on the compliance docket are heard Thursdays at 1:30 pm.

COMMUNITY STAKEHOLDERS

Frequency of stakeholder meetings: Quarterly

List of stakeholders: Offenders on unsupervised probation receive batterer intervention services from Northland Dependency Services and Midwest ADP. All compliance docket offenders receive batterer intervention services through Healthy Boundaries and mental health services from Truman Behavioral Health. All offenders may receive substance abuse treatment from Imani House, Benilde Hall, or Heartland Behavioral. Dumas Group provides emotional fitness classes for all offenders and GED instruction for compliance docket offenders. Emotional fitness classes include both individual and group counseling sessions where offenders learn to accept accountability for their actions in daily life with the goal of increasing personal responsibility. Connections to Success provide employment and child support assistance to compliance docket offenders. Electronic monitoring is provided by Electronic Sentencing Alternative.

VICTIM SAFETY

The Municipal Court prosecutor's office employs two full-time victim advocates who work with victims prior to final adjudication of their cases. These victim advocates are present in the courtroom daily and use non-docket time to notify victims of upcoming court appearances and explain the legal process. New House and Rose Brooks Inc. provide community-based victim services post-final adjudication. A representative from each organization is present in the courtroom daily and receives referrals from the prosecutor's office once a case is concluded. New House provides all victim services for compliance docket victims.

OFFENDER ACCOUNTABILITY

Compliance reviews: The compliance docket staffing includes the judge, offender accountability coordinator, compliance docket prosecutor, and compliance docket batterer programs instructor. Staffing occurs immediately prior to the calling of the compliance docket and discusses each offender reporting on the docket. Staffing is an opportunity to review an offenders success or discuss sanctions where required. Compliance docket probation violations are addressed with a uniform sanctioning grid. Defendants placed on the compliance docket have plead guilty on a regular domestic violence docket and are required to report on a compliance docket within two weeks of their plea. They also report to the offender accountability coordinator within one week of their plea. First appointments with the offender accountability coordinator include administration of the domestic violence risk and needs assessment tool, review of the sanctioning grid, completion of firearms forfeiture paperwork, and the scheduling of a batterer intervention evaluation. The domestic violence risk and needs assessment tool has recently been added to our probation database. The report back dates the compliance docket and the report dates with the offender accountability coordinator are scheduled based on defendant's success on probation. The better an offender does on probation, the less frequently he has to report. The longest an offender may go without some form of supervisory contact is 30 days.

Offender services: Defendants are ordered into services (detailed above) based on their needs as determined either by the risk assessment tools or through the collaborative efforts of the compliance docket team and community partners. Offenders may be placed on electronic monitoring where there is a high risk of victim contact, in particular for multiple allegations of protective order violations. An offender may be ordered to report to a probation officer prior to the final adjudication of their case to ensure that bond conditions are not violated.

LEGAL SERVICES

Domestic violence cases filed at the municipal level are punishable by up to six months in jail. If a defendant cannot afford legal counsel, they are represented by Legal Aid of Western Missouri. Legal Aid is also appointed as necessary on probation violations.

TRAINING

Court staff has provided training at the following conferences:

- *Court and Community Collaboration to Enhance Victim Safety and Offender Accountability*
- *The 20th Annual Domestic Violence and Children Interdisciplinary Conference*
- *The 21st Annual Governor and Attorney General's Victims' Rights Conference*
- *Best Practices in Enhancing Victim Safety and Offender Accountability: How Can the Criminal Justice System Respond Conference*

Court staff and community stakeholders have received training on:

- *Evidence-Based Best Practices in Offender Accountability and Victim Safety*
- *Recognizing and Responding to Risk in Domestic Violence Cases*

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What Makes a Domestic Violence Court Work?

Lessons from New York

By Robyn Mazur and Liberty Aldrich

Editor's Note: *This article first appeared in a publication of the Center for Court Innovation. The Center is a public-private partnership with the New York State Unified Court System. It promotes new thinking about problem-solving innovations. The publication was supported by the Office of Justice Programs, Violence Against Women Grant Office, U.S. Department of Justice, under Grant Number GT-00-56-1530. The opinions are those of the authors and do not necessarily represent the official position or policies of the U.S. Department of Justice.*

The 1990s witnessed a sea change in the criminal justice response to domestic violence. For centuries, domestic violence had been perceived as a private affair—a personal matter between disputants. Courts did not handle domestic violence cases in large part because domestic or family violence often was not illegal. It took years of hard work from advocates to change this situation.

Even after statutes and case law had made it clear that domestic vio-

lence was against the law, many judges, police officers, and other criminal justice professionals believed that legal intervention was a waste of resources. Many simply didn't take domestic violence seriously—an attitude that was reinforced when many victims dropped charges and returned, seemingly voluntarily, to the arms of the accused batterer.

What was missing from the system was an understanding of the complexities of domestic violence, especially the powerful social and economic ties that bind victims to their abusers. And, to be fair, there was not a large body of knowledge to build on in the field—no one knew what worked with these difficult cases. While the reasons for the criminal justice system's failures could be subtle, the consequences were plain as day: in all too many instances, either perpetrators were never brought to court or their cases were quickly dismissed. And domestic violence continued unabated. The FBI estimates that a domestic violence crime is committed at a rate of once every fifteen seconds.¹ According to conservative estimates, one million women are battered by an intimate partner annually.² Other sur-

veys say the number assaulted each year is as high as four million.³

These staggering numbers and the consciousness-raising efforts of domestic violence advocates have led, during the last twenty years, to significant changes in the criminal justice response to such offenses. Perhaps the greatest changes occurred in the 1990s, with the passage of the federal Violence Against Women Act and the infamous O.J. Simpson trial, which focused national attention on domestic violence. This increased attention on domestic violence resulted in, among other things, the passage of mandatory arrest laws, an increase in funding for services for victims, and the creation of special domestic violence prosecution and police units. At the same time, there was a parallel movement taking place within state court systems. More and more judges and attorneys became frustrated with seeing the same litigants before them time and time again. These system insiders began to search for new tools, strategies, and new technologies that could help them address difficult cases where social, human, and legal problems collide. The result was the creation of "problem-solving courts," a

reform effort designed to improve case outcomes for those involved with the justice system and their communities. It should come as little surprise that domestic violence advocates and problem-solving court innovators were both attracted to the idea of creating a specialized court to address domestic violence. Today, there are more than 300 courts nationwide that have special processing mechanisms for domestic violence cases.⁴

As domestic violence courts spread across the country, many jurisdictions are beginning to wrestle with questions about how to administer these courts effectively. In New York, under the leadership of Chief Judge Judith S. Kaye, the state court system has developed or is planning sixteen domestic violence courts, including six recently-launched “integrated domestic violence courts,” in which the presiding judges handle all issues—both criminal and civil—affecting a single family.

This document is designed to communicate the basic lessons of domestic violence courts in New York. The goal is to provide judges, attorneys, court administrators, and others with the benefit of New York’s experience—experience that has run the gamut from densely populated urban communities to suburban and even rural settings and from courts dedicated exclusively to handling felonies to high-volume courts that handle up to 3,000 misdemeanors a year. Each of New York’s courts has also experimented with different ways of monitoring defendants and providing services to victims. Through consultation with partner agencies and experts in the field, as well as through trial and error, New York’s domestic violence courts have developed and field-tested techniques that have helped improve victim safety and enhance defendant accountability.

Robyn Mazur and Liberty Aldrich are, respectively, the associate director and the director of Domestic Violence Programs at the Center for Court Innovation.

Confronting the Challenge of Domestic Violence

The number of domestic violence crimes in New York is overwhelming. It is estimated that approximately 200,000 New Yorkers are victimized by physical violence each year.⁵ And, in New York City alone, Safe Horizon, a victim-assistance agency, helps more than 900 people per month obtain orders of protection.⁶

The resulting domestic violence cases constitute about 20 percent of all cases that enter the criminal court system.⁷ This load of cases has led the state’s judicial leadership to search for new responses. As the state’s chief judge, Judith S. Kaye, has written:

One possible judicial response to the current situation is to continue to process domestic violence cases as any other kind of case, and to continue to observe systemic failures. Another response, however—the problem-solving response—is to try to design court programs that explicitly take into account the special characteristics that domestic violence cases present. If domestic violence defendants present a particular risk of future violence, then why not enhance monitoring efforts to deter such actions? If victims remain in abusive situations due to fear for their own and their children’s well being, then why not provide links to services and safety planning that may expand the choices available to them? If cases are slipping between the cracks of a fragmented criminal justice system, then why not work together to improve coordination and consistency?⁸

As Kaye makes clear, domestic violence is not like other crimes: it does not involve violence between strangers, like a barroom brawl, but violence between intimates. Victims, under the influence of their abuser even after an arrest, are often isolated and reluctant to prosecute. The abuser may reinforce these feelings through additional threats and abuse, which may make the victim reluctant to take steps to protect herself. These simple facts make it more difficult to prevent and prosecute crimes of domestic violence. Any effort to break

this dangerous cycle must stress both intensive victim service provision and defendant accountability.

The New York State Model

New York’s domestic violence courts were designed from the beginning to take this challenge head-on. The first domestic violence court in the state opened in Brooklyn in 1996, handling felony-level domestic violence cases. The model was designed to overturn the “business as usual” approach to domestic violence. The court featured a single presiding judge, a fixed prosecutorial team, and enhanced staffing to monitor defendant compliance and provide assistance to victims.

The court also sought to change the way the criminal justice community viewed domestic violence. Through education and partnerships, the court sought to stimulate a more coordinated response to domestic violence. For example, the court established a “court partners” meeting, which includes judges, court personnel, victim advocates, prosecutors, defense attorneys, probation and parole officers, representatives from batterers programs, and a variety of social service agencies. Convened every six weeks, the partners meeting allows the various agencies to exchange information and ideas on the most effective way to respond to domestic violence. New ideas have led to new action. Discussions at partners meetings revealed that many offenders were leaving prison and did not know that the terms of their original order of protection were still in effect. In order to ensure that the offenders could no longer plead ignorance, the domestic violence court instituted a procedure that required parolees to come back to the court for a formal review of the terms of their order of protection.

There are encouraging signs that the Brooklyn court model is making a difference. Dismissals have been cut in half since the court’s opening—from 8 percent to 4 percent.⁹ The court has offered intensive services, such as housing, job training, and safety-plan-

ning, to virtually every victim with a case pending. Independent researchers from the Urban Institute concluded that “victim services are clearly expanded under the specialized court, in that all victims are assigned an advocate and receive a protection order.” It also found that “the District Attorney’s Office [is] more likely to indict cases with less severe police charges in order to bring the enhanced defendant monitoring and victim services resources to these cases.” And while conviction rates didn’t change under the domestic violence court, the method of reaching disposition did: “Convictions by guilty pleas were more common and trials were less common . . . Even when accounting for other relevant factors (such as factors relating to evidence), plea bargaining is more likely to result from use of the court model itself. This represents a cost-savings to the court system.”¹⁰

Guided by the success of the Brooklyn model, the New York State Unified Court System subsequently developed domestic violence courts in several other counties. To date, there are domestic violence courts in operation or in the planning stages in ten jurisdictions in both felony and misdemeanor courts, and both urban and suburban jurisdictions. The inclusion of misdemeanors has added an important dimension to the model, testing the efficiency of a high-volume court where judges cannot leverage substantial jail time to enforce compliance.

In addition to the domestic violence felony and misdemeanor court models, the state court system is also piloting “integrated” domestic violence courts. These multijurisdictional courts are dedicated to the idea of “one family—one judge.” They allow a single judge to oversee criminal cases, orders of protection, custody, visitation, and divorce matters for one family. From a practical perspective, these courts simplify the court process for families in distress, creating an environment where litigants no longer have to navigate multiple court systems simultaneously

Multijurisdictional courts allow a single judge to oversee criminal cases, orders of protection, custody, visitation, and divorce matters for one family.

and reducing the risk that they will receive conflicting orders.

Principles

Based on the collective experience of the New York State domestic violence courts—misdemeanor, felony, and integrated—several core principles have emerged. While each domestic violence court must address the needs of its own community, this list highlights the building blocks of a successful domestic violence court: victim services, judicial monitoring, accountability, and coordinated community response.

Victim Services

Complainants in domestic violence cases have unique needs and concerns. Unlike typical assault victims, they are often dependent on their assailant for economic assistance, have children together with him, or are even living with his family.¹¹ They may also be threatened by the defendant or his family during the course of a case. These factors and others greatly complicate domestic violence cases and make the prompt and effective provision of social services to victims of paramount importance.

• **Provide victims with immediate access to advocates.** Victim safety is the true cornerstone of domestic vio-

lence courts. Every victim should be given immediate access to an advocate who can provide safety planning and explain court procedures. Comprehensive victim advocacy should include long-term services as well as access to counseling, job training, immigration services, child services, and other programs aimed at improving self-sufficiency. A victim should remain paired with her advocate throughout the pendency of the case (i.e., from police response through post-disposition).

At the Brooklyn Felony Domestic Violence Court, advocates are drawn from two sources: the district attorney’s office and Safe Horizon, an independent victim advocacy organization. Both have offices in the courthouse, giving them easy access to victims and court staff. Their services are not exactly the same, however: advocates from a district attorney’s office may be compelled to give victim information to the prosecutor—even if the victim does not want the information to be shared. Independent victim advocates, on the other hand, have greater flexibility to keep information confidential. In Brooklyn, complaining witnesses may choose to see an independent advocate if they are uncomfortable with the district attorney’s advocate. This arrange-

ment takes advantage of the strengths of both systems without sacrificing victim confidentiality.

- **“Frontload” social services.**

Advocates should make linkages with social service agencies, emergency shelter, food, and civil legal services. This makes sense in human terms (providing people in crisis with help as soon as possible) and in terms of improving court outcomes. Studies have shown that when victims receive assistance early in the court process, they are much more likely to remain engaged in their cases. Victims are more likely to follow through with a case when they clearly understand the legal process.

- **Keep victims informed.** In addition to providing general information and referrals, advocates should provide victims with up-to-date information on their cases. This reduces the burden on the victim to constantly reappear in court to find out the status of her case, and ultimately reduces her chances of being placed in further danger. It also gives the victim the feeling that the system cares about her welfare; this may, in turn, persuade the victim to do all she can to participate in the prosecution.

- **Schedule cases promptly.**

Another way to enhance victim safety is to schedule domestic violence cases promptly so that victims can get an order of protection quickly. The longer the victim must wait for legal action, the longer she is at risk. The sooner a case can be heard, the sooner assistance can be provided. In Westchester County, for instance, felonies are transferred immediately to the domestic violence court after the initial filing of an indictment. This allows for the rapid issuance of orders of protection, and sends the message to defendants that the case is being taken seriously. It also allows the court to link victims to services as early in the process as possible. Experience indicates that delays give the batterer more time to convince the victim to become uncooperative.

- **Create “safe places” within the courthouse.** Court planners should rec-

ognize the need for victim safety and provide security and comfort for victims accordingly. Design elements can include providing private space to speak with advocates and separate waiting areas near the victim services office. The Bronx Misdemeanor Domestic Violence Court, in fact, has a separate safe waiting area in the victim services office. The waiting area is staffed by victim advocates; victims are escorted to and from the courtrooms when they need to testify.

Judicial Monitoring

Domestic violence courts seek to take advantage of the coercive and symbolic authority of judges. There is good reason for this: research indicates that ongoing judicial monitoring may be the most effective technique to reduce domestic violence recidivism.¹² Monitoring ensures that repeat offenses will not be tolerated and ensures that the full weight of the judge’s authority is directed at stopping the violence.

- **Assign a permanent judge.**

Assigning a single judge to handle criminal domestic violence cases from arraignment through sentence and compliance helps ensure consistency. It also helps the judge become well-versed in responding to the special issues presented by domestic violence. Having a single judge preside from the beginning to the end of a case also helps the judge make more informed decisions. The judge’s ability to hold a defendant accountable is compromised when the defendant has more information than the court and can “play” the system.

- **Supervise defendants continuously.** Domestic violence courts should use intensive judicial supervision from arraignment through disposition. For defendants whose sentences include probation, judicial monitoring should continue post-disposition as well. Intensive monitoring can come in many forms. In felony-level cases, a judge can require defendants to appear in court every two weeks while a case is pending to ensure that they have enrolled in a batterers treatment program (often a

condition of bail) and to ensure that they are refraining from contact with the victim. Later, judges can use similar techniques to ensure compliance with the sentence. Frequent reporting means that if a violation of a sentence does occur, the court is in a position to respond immediately.

- **Explore new methods of judicial monitoring.** Courts should always look for ways to enhance judicial monitoring. Curfews, phone check-ins, and ankle monitors are all techniques that courts have explored. For example, the Brooklyn Domestic Violence Court established a partnership with the New York State Department of Parole that requires new parolees to appear before the judge upon their release from prison. During their appearance, the judge carefully goes over the conditions of their release, with particular attention focused on the stipulations contained in the order of protection. Thus, the court found a new way to expand the role of the judge in monitoring offenders.

- **Dedicate additional staff and resources for monitoring.** Judges can’t do it alone. In New York’s domestic violence courts, judges rely on case managers to keep track of victim needs and violations by defendants. Case managers can assist the judge by staying in constant contact with off-site partners and tracking defendant compliance with court orders.

- **Create a separate compliance docket if there is high volume.** Particularly in busy courthouses, it may make sense to create a separate “compliance courtroom” in which a judge is assigned to monitor offenders’ compliance after imposition of the sentence. The compliance judge can quickly identify violations and refer the case back to the sentencing judge as necessary. In the Queens Misdemeanor Domestic Violence Court, for example, the volume is so high that a separate compliance courtroom was established in order to adequately address each case and get reports on each defendant in a timely manner.

Accountability

It is common for both the complaining witness and the defendant in a domestic violence case to believe that the victim brought the violence on herself. The court can respond to this by making sure that defendants understand that they are directly accountable to the judge for their behavior towards the complainant and their compliance with court orders. Domestic violence courts can encourage another kind of accountability as well, holding government and nonprofit partners accountable for serving victims and monitoring defendants in the most effective manner possible.

• **Build strong relationships with service providers.** Information is crucial to any effort to promote accountability. Strong relationships with service providers, such as batterers intervention programs and substance abuse treatment providers, ensure that when a defendant is noncompliant, the court is notified right away and can act accordingly. In Buffalo, service referrals are made through a clinical center located right in the courthouse, ensuring that information flows smoothly both from and to the court.

• **Hold batterers programs accountable.** Judges and case managers should research local batterers programs to determine which ones will reinforce the court's message to defendants. Additionally, the court needs to work together with batterers programs so that they know what they have to tell the court and why. One batterers intervention program in Brooklyn, not accustomed to being accountable to the court, reported as a matter of course that all offenders sentenced to the program were in compliance even if they were not. When the court realized this, it stopped referring defendants to that program. This example highlights the need for constant communication with off-site programs.

• **Think creatively.** In many jurisdictions the local probation department can provide the court with specialized domestic violence officers to help

supervise offenders. Probation and parole departments can monitor offenders even when they are no longer being monitored directly by the court. And local nonprofits can pitch in as well. In Queens, the domestic violence court has a representative from a local batterers intervention program sitting in the courtroom in order to conduct an immediate intake for each sentenced offender. This process eliminates a step from the process—sending the offender off-site to participate in an assessment interview—and thus improves efficiency and accountability.

• **Use technology to enhance access to information.** Computer technology can streamline the information process and ensure that relevant information flows continuously, quickly, and reliably to all dedicated personnel. Dedicated domestic violence courts use technology to help avoid contradictory rulings and to make more informed decisions about sentencing. New York has developed a specialized domestic violence technology application to allow judges, case managers, district attorneys, defense attorneys, probation officers, and community partners to have immediate access to important information regarding each domestic violence case.¹³

Coordinated Community Response

To combat domestic violence, all segments of a community have to work together to send a consistent message that violence is not acceptable. Domestic violence courts can play a critical role in raising public consciousness and convening disparate partners to improve interagency communication.

• **Create strong linkages with a wide range of partners.** Because of its complexity, domestic violence inevitably involves a variety of local systems, agencies, and individuals. Recognizing this, domestic violence courts should aspire to expand the range of organizations that are involved in the court's efforts. Partnerships between the domestic

violence court and the many agencies that provide victim assistance/advocacy and defendant monitoring help to strengthen the message to the defendant—and to the community—that domestic violence is not tolerated.

• **Convene regular meetings with criminal justice and social service partners.** Interagency collaboration is crucial to ensuring communication, consistency, and continuing education about the court and domestic violence. The domestic violence judge can be a catalyst, providing leadership to the collaboration. Judges should invite all of the court's partners—representatives from the prosecutor's office, the defense bar, court officers, victim advocates, resource coordinators, batterers intervention programs, and probation—to participate in regular meetings. The meetings create an opportunity to clarify and understand the court's expectation of everyone's roles. Partner meetings can also focus on strengthening outreach to underserved communities and devising preventive education models. Partners, meetings in Westchester County, for example, frequently draw representatives from as many as fifty agencies to share new strategies and form new linkages.

• **Provide court personnel and partners with domestic violence education and training.** Domestic violence courts can continually educate and update staff and partners by scheduling regular court-sponsored trainings. In New York's domestic violence courts, trainings have been held on a variety of topics featuring a wide range of both local and national experts. Trainings have ranged from "Domestic Violence 101" presentations held during Domestic Violence Awareness month to more in-depth day-long presentations focused on specific issues such as the overlap of child maltreatment and domestic violence. The goals of these trainings are really twofold—to provide ongoing support and reinforcement on domestic violence issues to court personnel and partners as well and to highlight the court's commitment to

handling domestic violence cases in an educated and serious manner.

Obstacles

Creating a domestic violence court is not without its challenges, of course. A domestic violence court is, by its nature, a collaborative enterprise requiring the buy-in of numerous agencies including court administrators, judges, prosecutors, victim advocates, and, where possible, the defense bar. Each of these stakeholders will have their own concerns. Addressing as many of these issues up front will help prevent problems down the road.

• **Defense objections.** Defense counsel opposition often focuses on the court's use of intensive judicial monitoring and predisposition conditions of release. Planners can help address this issue by including defense counsel in all aspects of court development and implementation. New York domestic violence courts have discovered that there are in fact issues related to domestic violence that engage the defense bar (i.e., battered women defendants, defendants with mental illness) and have used these topics as a catalyst to encourage their participation. These issues are worthy of special attention because both defense counsel and victim advocates agree that these cases present unique difficulties (e.g., battered women defendants are themselves victims of domestic violence and defendants with mental illness are hard to place within current criminal justice sanctioning schemes) and might be better solved through a domestic violence court. Defense counsel have also objected that referring to a court as a "domestic violence court" is inherently prejudicial. They felt that the label "domestic violence" presupposes the guilt of all court participants. In response to these concerns, the Brooklyn court removed all signage from the courtroom, although the court part is still officially known as the Brooklyn Felony Domestic Violence Court, and remains dedicated to responding to the issues of domestic violence. Through inclusion of defense

counsel in meetings as well as by taking pains to preserve due process protections, domestic violence courts can work to mollify the defense bar's concerns.

• **Judicial objections.** Judges may feel that their involvement in a specialized court will compromise their objectivity. Some judges have expressed the opinion that domestic violence trainings force them to be too closely aligned with the victim's perspective and that additional information from case managers could be considered ex parte communication. New York Chief Judge Judith S. Kaye has mandated that all judges that hear family-related cases participate in domestic violence training. Understanding the dynamics of domestic violence does not mandate any particular finding in any individual case. And judges who have presided over domestic violence courts have not found their objectivity impaired. After spending three years in the Bronx misdemeanor domestic violence court, Judge Ethan Greenberg has seen firsthand the benefits of domestic violence courts. "I am able to make better decisions with the enhanced training and information that I am given," he said.

• **Partner objections.** Criminal justice professionals (i.e., attorneys, police, probation officers) may claim with good reason that they are too short-staffed to provide additional scrutiny to domestic violence cases. Arranging for a site visit to an operational court can help mollify these concerns. Agencies with experience working with domestic violence courts in New York have often found that their additional efforts pay off in savings down the road. For example, prosecutors may have to redeploy personnel in order to provide a dedicated team to the part. Although difficult at first, this arrangement may save staff time in the long run by minimizing adjournments. Additionally, partner agencies should be encouraged to work together to look for additional funding opportunities that will help fill gaps in staffing.

• **"Burnout."** After months of planning and implementation, the realities

of handling a caseload consisting solely of domestic violence can take its toll on the front-line judges and attorneys in a domestic violence court. Burnout is a widespread problem for professionals who work with domestic violence victims and perpetrators. The cases are highly emotional and, in many situations, the parties return to court repeatedly. Burnout can affect everyone from the judge to the victim advocate to the case manager. Domestic violence courts should not be shy about seeking out professional assistance, providing staff with the tools they need to prevent "secondary trauma."

Defining Success

Many domestic violence advocates are hesitant to embrace the idea that domestic violence courts are "problem-solving courts." There are substantial differences between domestic violence courts and other problem-solving courts. Many of these differences stem from how success is measured and to whom services are offered. Drug courts can easily look to see whether defendants are successfully completing their court-mandated drug-treatment programs. But domestic violence courts are not targeted at "rehabilitating" defendants. Indeed, services are offered primarily to help victims achieve independence. The primary "service" offered to defendants is batterers programs. But in New York domestic violence courts, batterers programs are used by domestic violence courts primarily as a monitoring tool rather than as a therapeutic device. This approach is based on the research about batterers programs, which is extremely mixed. It is unclear whether these programs have any impact at all in deterring further violence.

Other methods of measuring recidivism present substantial challenges. First, one might turn to the victims to track re-offending. After all, they are not defendants—they aren't fingerprinted and the court has no legal hold on them. Moreover, many victims are loath to "re-live" their victimization by

participating in follow-up studies. As a result, it is often difficult to track victims over the long haul. For the same reasons, it can also be difficult to find out whether domestic violence courts are meeting victims' service needs.

Without victim information, researchers may be forced to use official records, which track only arrests and not unreported offenses, to try to understand the courts' impact on recidivism. Additionally, court records have other problems. Official records rarely record whether an offense is committed against the same victim, and sometimes not even whether a rearrest is a domestic assault or "regular" assault.

Domestic violence courts in New York keep track of case numbers, dispositions, and the number of victims linked to services in order to assess their progress. This information is collected quarterly and distributed to the judges, court administrators, and clerks. But more is needed. Because it is difficult to identify a single standard for defining success, it has been difficult to show whether or not these specialized courts are making a difference. This debate echoes the debate over whether or not batterers programs have an impact on either recidivism or safety. As more research is being done in this area, domestic violence courts will have to modify their procedures to ensure that they are consistent with the best practices in the field.

Funding

Finding funding, both initially and for ongoing support, has proven to be an obstacle to wider implementation of domestic violence courts. Although the federal government provided a tremendous incentive to launch these specialized courts, they cannot be expected to provide funding over the long term.

As with all courts, resource allocation is always a challenge. Dollars for the extra resources necessary for a domestic violence court are often hard to come by. However, domestic violence courts do have the potential to attract funding from an array of

sources—they do not have to rely exclusively on state judicial budgets. Fundraising efforts should capitalize on the courts' ability to increase victim safety and improve community well-being. Planners should seek out partnerships with community-based organizations in order to strengthen applications both to government and private funders who may be interested in issues like women's health, families, and other topics related to domestic violence.

Conclusion

While these obstacles should not be minimized, domestic violence courts have been able to change the way that the criminal justice system approaches domestic violence cases. Domestic violence is a unique crime that demands innovation from the entire criminal justice system. The progressive nature of domestic violence crime—which tends to become more and more violent—underscores that courts cannot look only at individual cases. They must look for broader system outcomes, seeking to reduce recidivism, increase safety for victims, and improve inter-agency collaboration.

Domestic violence courts alone cannot eliminate family violence, but they can play an important role, increasing accountability for defendants and safety for victims. This is the lesson of New York's experience with domestic violence courts.

Notes

1. N.Y. STATE OFFICE FOR THE PREVENTION OF DOMESTIC VIOLENCE, DOMESTIC VIOLENCE DATA SHEET (2001).

2. Judith S. Kaye and Susan K. Knipps, *Judicial Responses to Domestic Violence: The Case for a Problem Solving Approach* [herein after *Judicial Responses*], 27 W. ST. U.L. REV. 3 (1999-2000).

3. *Id.*

4. SUSAN KEILITZ, NATIONAL CENTER FOR STATE COURTS, SPECIALIZATION OF DOMESTIC VIOLENCE CASE MANAGEMENT IN THE COURTS: A NATIONAL SURVEY (2000).

5. N.Y. STATE OFFICE FOR THE PREVENTION OF DOMESTIC VIOLENCE, *supra* note 1.

6. SAFE HORIZON, HELP IN THE COURTS FACT SHEET (2000).

7. Amy Waldman, *Striking Back*, N.Y. TIMES, June 28, 1998.

8. Judith S. Kaye and Susan K. Knipps, *Judicial Responses* 5, 6.

9. LISA NEWMARK ET AL., URBAN INSTITUTE JUSTICE POLICY CENTER, SPECIALIZED FELONY DOMESTIC VIOLENCE COURTS: LESSONS ON IMPLEMENTATION AND IMPACTS FROM THE KINGS COUNTY EXPERIENCE (Oct. 2001).

10. *Id.*

11. It is worth noting that domestic violence is not limited to male-female relationships and is not always perpetrated by men. This document uses "she" in order to refer to the complainant/victim and "he" to refer to the defendant for simplicity and in order to reflect the results of studies that show approximately 95 percent of domestic violence victims are female.

12. EDWARD GONDOLF, PENN. COMM. ON CRIME AND DELINQUENCY, THE IMPACT OF MANDATORY COURT REVIEW ON BATTERER COMPLIANCE: AN EVALUATION OF THE PITTSBURGH MUNICIPAL COURTS AND DOMESTIC ABUSE COUNSELING CENTER (1998).

13. See PAMELA YOUNG, CENTER FOR COURT INNOVATION, AN INFORMED RESPONSE: AN OVERVIEW OF THE DOMESTIC VIOLENCE COURT TECHNOLOGY APPLICATION AND RESOURCE LINK (2001).

Kansas City Municipal Court
Domestic Violence Compliance Court
Recommended Sanctions for Infractions

The following table is a sample of best practice framework for the imposition of sanctions within the Domestic Violence Court. It is to be used as a guide. It is not intended to limit judicial discretion.

INFRACTION	1st COURT IMPOSED SANCTION	2nd COURT IMPOSED SANCTION	3rd COURT IMPOSED SANCTION	4th COURT IMPOSED SANCTION
Failing to attend BIP assessment	Reprimand and \$10.00 fine and/or 5 hours community service to be completed within one week. (If sanction not completed on time, one day jail)	One day jail sanction	Revocation hearing	
Reporting late to BIP assessment (more than 15 mins after the schedule class time)	One page essay on the importance of being on time	\$10.00 fine and /or 5 hours community service to be completed within one week. (If sanction not completed on time, one day jail)	One day jail sanction	Revocation hearing
Unexcused absences (no call/no show) for BIP classes	One page essay on the importance of being responsible and accountable for scheduled classes and reporting	\$10.00 fine and/or 5 hour community service to be done within one week. (If sanction not completed on time, one day jail)	One day jail sanction	Revocation hearing
Failure to pay BIP fee	Reprimand and defer to BIP provider	Weekly reporting to OAC until fees are paid.	One day jail sanction	Revocation hearing
Failure to pay probation fees/fines (due 1 st of the month)	Reprimand and warning. Pay by next court date	Weekly reporting to OAC and/or court until fees are paid	Continue to report weekly. \$10 fine with accrue if fees are still not paid by the next month	
Disorderly behavior towards Staff/Program Providers	Reprimand. To be taken into custody – Reinstatement at the discretion of staffing team			
Failing to Submit to Random Urinalysis	Reprimand and \$10 fine and/or 5 hours community service to be completed within one week. (If sanction not completed on time, one day jail)	One day jail sanction	Revocation hearing	

INFRACTION	1st COURT IMPOSED SANCTION	2nd COURT IMPOSED SANCTION	3rd COURT IMPOSED SANCTION	4th COURT IMPOSED SANCTION
Positive Urinalysis	Reprimand and one page essay on "Relapse Triggers", "Managing Cravings", "The Disease of Addiction" or "The Impact of Addiction on Family"	Increased UAs	Weekly reporting to OAC and/or court or possible referral to DV Drug Court (referral based on consecutive positive UAs)	
Dilute Urinalysis	1 page essay on the importance of honesty in treatment	Daily UAs		
Adulteration of Urinalysis	-72 hours jail sanction	-Termination from DV/Drug Court Program -Revocation hearing		
Failing to report for supervised probation	Daily check-ins for one week	One day jail sanction	Revocation hearing	
Reporting more than 10 minutes late to OAC appointment (unexcused)	You will not be seen. Appointment will be rescheduled at next court date. -One page essay on the importance of being responsible and accountable for scheduled classes and reporting	Weekly reporting to OAC and/or court	Daily reporting to OAC and/or court	Revocation hearing
Violation of No Contact Order	24-72 hour jail sanction.	Revocation hearing		
Re-arrest and conviction for DV/VOP, or failure to report police contact	One week jail sanction. Release on electronic monitoring pending trial.			
Re-arrest for Non-DV	At discretion of staffing team			
Failure to Appear for Compliance Docket (no call/no show)	At discretion of staffing team to include up to 72 hours in jail and revocation. If you have absconded for more than 6 months, you are no longer eligible for compliance supervision.			
Failure to engage in court ordered services.	Reprimand and weekly reporting to OAC and/or court	Daily reporting to OAC and/or court	One day jail sanction.	Revocation hearing.
Reporting late to the Life Skills Class (Doors will be locked at 130pm)	One page essay on the importance of being on time	Weekly reporting to OAC and/or court	Daily reporting to OAC and/or court	