

Specialization of Domestic Violence Case Management in the Courts: A National Survey

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Despite the far-reaching roles and responsibilities of courts and judges in domestic violence cases, courts have been the last of the justice system components to engage in institutional reform to improve the system's impact on domestic violence (Buzawa and Buzawa, 1996; Epstein, 1999). Law enforcement and prosecution have made dramatic advances and systemic changes since the early 1970s (Epstein, 1999; Little et al., 1998), but, with a few exceptions, courts did not begin focusing attention on domestic violence cases until the early 1990s. Domestic violence cases now account for a significant and growing portion of State court caseloads. Ten-year trend data from the Court Statistics Project of the National Center for State Courts (NCSC) indicate that from 1989 to 1998 domestic violence filings in State courts increased 178 percent (Ostrom and Kauder, 1999). This rise in court filings contrasts sharply with trend data from the Bureau of Justice Statistics (Rennison and Welchans, 2000), which reported in May 2000 that the rate of intimate partner violence fell by 21 percent from 1993 to 1998.

Specialized Court Processes and Services for Domestic Violence Cases

Since the late 1990s, a key development in State courts has been the institution of specialized structures, processes, and practices to address not only rising domestic violence caseloads but also the distinct nature of these cases and the need to give them special attention. These specialized approaches have collectively come to be called domestic violence courts. There is, however, great variation among these courts and in the specialized processes they use. NCSC designed this study to determine what those variations are and to develop a greater understanding of the structural and operational changes that courts are implementing to address domestic violence. Information from the study is expected to be useful to judges and court managers who plan to institute specialized processes or to change existing ones, to other system practitioners and domestic violence advocates who seek to improve justice system responses, and to researchers and evaluators who need greater clarity about types of court processes and services to develop more appropriate study designs and methodologies.

Benefits of Domestic Violence Courts

Justice system practitioners, victim advocates, and researchers (Fritzler and Simon, 2000; Karan, Keilitz, and Denaro, 1999; Keilitz, Jones, and Rubio, 2000; Tsai, 2000; Winick, 2000) have cited the following major benefits of domestic violence courts:

- ◆ Enhanced coordination of cases and consistent orders in different cases involving the same parties.
- ◆ More comprehensive relief for victims at an earlier stage of the judicial process.
- ◆ Advocacy services that encourage victims to establish abuse-free lives.
- ◆ Greater understanding by judges of how domestic violence affects victims and their children.
- ◆ More consistent procedures, treatment of litigants, rulings, and orders.

- ◆ Greater availability of mechanisms to hold batterers accountable for the abuse.
- ◆ Improved batterer compliance with orders.
- ◆ Greater confidence on the part of the community that the justice system is responding effectively to domestic violence.
- ◆ Greater system accountability.

The specialized processes and services that courts have implemented to achieve these benefits include intake units for protection order cases; service referral processes; case coordination mechanisms to identify, link, and track cases involving the same parties or their children; specialized calendars for protection orders and/or criminal cases; specialized judges to hear domestic violence cases; judicial review calendars or other mechanisms to monitor compliance with court orders; and data systems for improved case coordination, decisionmaking, and compliance monitoring.

Concerns

Although specialization of domestic violence case management holds great potential to address domestic violence effectively and create greater safety for victims, practitioners and advocates have expressed concerns that specialization may, in practice, compromise victim safety, access to justice, fairness, or batterer accountability for the sake of innovation (Epstein, 1999). For example, providing specialized judges to hear domestic violence cases may increase judicial expertise in the dynamics of domestic violence. It may lead, however, to loss of judicial neutrality, to the assignment of judges who are not motivated to acquire the knowledge and skills required to be effective in these cases, or to loss of judicial effectiveness from the stress of fast-paced decisionmaking in difficult and emotionally charged cases every day.

Another concern about specialized court calendars and judges is that prosecution units also may specialize to achieve maximum efficiency in the court at the expense of the domestic violence victims' interests. The pursuit of efficiency can lead to assembly-line justice that ignores the special needs of victims and the nature of the violence perpetrated against them. Batterers can escape appropriate sanctions through plea bargains or diversion to ineffective and unproven treatment programs (Hanna, 1998). Victims can be coerced to participate in defendants' prosecution through threats of sanctions against them (Hanna, 1996). Prosecutors can ignore or act in opposition to victims' concerns about safety or status in the community (Crenshaw, 1991; Epstein, 1999; Richie, 1996).

Perhaps the most detrimental effect of specialized domestic violence case management for victims with children is the information-sharing function designed to promote more consistent and complete relief for them. Violence against women can be enmeshed with child abuse and neglect issues, often because batterers also are abusing children in the home or children are suffering from the secondary effects of the violence committed against their mothers. In systems that screen cases and share information among government agencies, mothers who seek relief from the court risk becoming the target of dependency proceedings that can lead to their losing

custody of their children (Epstein, 1999; Miccio, 1999; Schechter and Edleson, 1999). Word of restrictive and punitive policies to address child abuse and neglect passes through the community, and the fear of losing their children may deter victims from accessing the system for the relief that is their right and that the system intends to offer.

Expected Outcomes

For several reasons, the NCSC study was expected to identify a wide variation in court structures, processes, services, and levels of integration of court processes. Numerous other studies of State courts have revealed significant differences in court size, organization, and jurisdiction. Courts vary greatly in their case management approaches. The level of automation is high in many courts but rudimentary in others. Many courts have judges and court managers who are highly innovative and community oriented; others do not. Laws related to domestic violence vary greatly across the States, and implementation of laws varies within States. Finally, reports from court practitioners and the domestic violence advocacy community indicated that court responses to domestic violence were far from uniform.

Design and Methodology

The implementation of specific court responses to domestic violence is relatively new. Until recently, little was known about the scope and nature of that implementation. The study therefore was designed to identify and describe as many courts with specialized processes as possible rather than to establish and study a representative sample of all courts in the Nation. Courts with specialized processes and services were identified through three primary sources: an initial mail survey of the State court administrator and the State coalitions against domestic violence in each State, an online survey of members of an NCSC court listserv, and NCSC project staff contacts with experts in the field.

This process produced a pool of approximately 200 courts from which project staff identified 160 courts with at least one specialized unit, process, or service for domestic violence cases.

The information reported in the study findings derives from three sources: responses of 106 of the 160 courts to a written questionnaire developed with the assistance of the project's advisory committee and pretested in several courts; followup telephone interviews with representatives of 82 of the 106 courts that responded to the mail survey; and a modified Delphi study (two rounds of questionnaires) with a panel of 27 professionals, including judges and court managers in courts that use specialized processes to manage and adjudicate domestic violence cases as well as other noted domestic violence experts and practitioners.

Findings

Delphi Study

The Delphi study findings indicate considerable consensus on several issues related to court management of domestic violence cases. The areas of accord demonstrate an understanding among those who have experience with domestic violence cases that victim safety, batterer

accountability, and system integrity are essential to an effective system response to domestic violence. The areas in which the study participants' views diverge reflect an uncertainty about the appropriate role of courts in providing services to domestic violence victims, limitations imposed by court jurisdiction and organization, and the issues associated with adapting established systems to address new and different issues. The key areas of consensus that follow indicate that specialization of processing and services for domestic violence cases is essential to managing them effectively (at least 70 percent of the study participants either agree very strongly or agree with the items related to these issues).

- ◆ Effective management of domestic violence cases requires coordination of all cases that involve the parties to the domestic violence case, integration of information in court data systems, and availability of information from all related cases to judges adjudicating the case.
- ◆ Effective management of domestic violence cases requires specialization, including intake for domestic violence cases, court staff, judges, prosecutors, and probation.
- ◆ Victims' access to justice is a primary goal of effective domestic violence case processing. Achieving this goal is facilitated by expedited proceedings, user-friendly directions and forms, assistance to victims by court staff or other personnel, accompaniment of victims by advocates in court proceedings.
- ◆ Court processes should ensure victim safety, both through court orders and service referrals and in the courthouse through such means as metal detectors, separate waiting areas for victims and defendants/respondents, and security officers in courtrooms.
- ◆ Court and judicial resources should be brought to bear on monitoring batterers' compliance with court orders and enforcing those orders to the fullest extent.
- ◆ Courts must address the interests of children involved in domestic violence cases, either as witnesses to or victims of the violence or through custody and visitation disputes between the victim and the offender (guardians ad litem and custody evaluators must have training in domestic violence issues).
- ◆ Domestic violence training for judges should be mandatory and ongoing; judges should be sensitive to the needs of domestic violence victims and understand the dynamics of domestic violence.

National Survey of Courts

The 106 courts that responded to the mailed questionnaire reported having numerous specialized processes and structural components to manage domestic violence cases, including specialized calendars, intake units, case screening, specialized judicial assignment, and court-ordered and -monitored batterer intervention programs. Most of the courts have some of these processes and components, but few of the courts have all of them. Moreover, the combinations and configurations of these processes and structures vary substantially across the courts, and no clear patterns are evident. Although many of these 106 courts have instituted some changes in organization, procedures, or judicial assignment to manage domestic violence cases more effectively,

relatively few appear to have implemented a more comprehensive system for their domestic violence caseloads.

Specialized calendars. Of the 82 courts contacted in the telephone survey, 67 reported having a specialized calendar for at least one type of case within its jurisdiction. Twenty-seven of those courts have specialized calendars for both protection orders and domestic violence misdemeanors, which is the most prevalent pattern of overlap among the three types of cases. Nine of the twenty-seven courts also have specialized calendars for the third case type, domestic violence felonies. The 10 courts that specialize their calendars for domestic violence felonies also handle protection orders on a specialized calendar.

Intake management and services. Among the 106 courts, only 66 have an intake unit or process for domestic violence cases, and practice varies greatly among those courts. Courts most often provide intake for protection orders, followed in frequency by misdemeanors, felonies, custody, child support, and divorce. The types of case processing services provided by intake units also vary. The most prevalent type of service is assistance with protection order petitions (85 percent), followed by screening for other pending cases (50 percent). Few courts assist litigants with other legal or economic matters, such as petitions for divorce/dissolution, child support, or paternity. Management designs also vary across the courts with specialized intake for domestic violence cases. The most common model is court management by court employees only (67 percent). Other management models include multiagency teams with the court as a partner, multiagency teams without the court, and outside agencies.

Case screening and coordination. Among the 106 courts, 68 screen domestic violence cases for related cases. In 48 of those courts, one purpose of screening is to link and coordinate cases for case processing. Fewer courts regularly apply the information obtained from case screening to guide judicial decisionmaking in key areas of victim safety. Forty courts use case screening information to inform bail and sentencing decisions, and 37 draw on this information to develop civil protection orders and safety plans. Only 19 courts use their screening capability for all three of these important purposes.

Judicial assignment and training. Less than one-quarter (22 percent) of the 106 courts assign judges exclusively to domestic violence cases, while in almost half (47 percent), judges have a mixed caseload that includes assignment to cases heard on a dedicated domestic violence calendar. Judicial training in domestic violence issues apparently is given little attention in courts with specialized processes for domestic violence cases. Most of the courts surveyed by telephone reported some type of judicial training on domestic violence, but in half of those courts the training is voluntary. Twenty-two courts require specific domestic violence training for judges. Only six of the courts require judges who have exclusive assignments to domestic violence to participate in any domestic violence training.

Batterer compliance monitoring. Of 82 courts surveyed by telephone, 71 reported that they regularly order batterers to participate in treatment programs, and all but one of the courts have some type of monitoring mechanism. Of the 70 courts that monitor batterer compliance, 43 percent reported having some type of hearings to review batterer compliance. The more common model is to set compliance hearings for individual defendants on mixed calendars that include

other matters. In fewer courts, batterer hearings and status checks are held periodically (e.g., weekly or monthly) on a calendar dedicated to batterer compliance review. Thirty-seven percent of the 70 courts do not regularly hold hearings, but monitoring reports are submitted to the court on a regular basis. In another 20 percent of the courts, batterer compliance is monitored more passively; other agencies are responsible for notifying the court only when the batterer does not participate in the ordered treatment.

Conclusions. Although all of the courts surveyed in this study have instituted some changes in organization, procedures, or judicial assignment to manage domestic violence cases, relatively few appear to have implemented a more comprehensive system for their domestic violence caseloads. Furthermore, the following overall conclusions indicate that courts have not taken the more holistic approach to domestic violence case management needed to fully address the complexities of domestic violence cases or the needs and interests of the victims who seek remedies through the courts.

- ◆ In many courts, screening and case coordination are not standard operations.
- ◆ Many courts do not use available information systems for case screening and tracking.
- ◆ Many courts do not use available information to inform decisions critical to victim safety, such as protection order provisions, safety planning, and bail arrangements.
- ◆ Most courts do not have systematic mechanisms to monitor batterer compliance.
- ◆ Judicial training is severely lacking, even in courts in which judges have exclusive assignments to domestic violence calendars.
- ◆ Few courts provide the full array of services needed to assist victims.
- ◆ Few courts provide access to legal assistance for civil matters and economic support.

Implications for Researchers

Study findings suggest that the implementation of specialized processes for domestic violence cases is proceeding without a common understanding of what components and resources are needed to achieve an effective and safe case management system. In designing future studies, researchers should take into account the great variation in specialized court processes or specialized courts. Understanding the particular process or court characteristics is critical to developing a coherent body of research and evaluation on the effectiveness, efficiency, and safety of specialized domestic violence processes. Researchers also need to account for variations in the context in which specialized court programs operate. (For example, is the court part of a coordinated justice system and community approach? Do one or more components of the system pose significant barriers to success? What type of data system infrastructure supports the program?)

Implications for Practitioners

Judges and court managers should ensure that they have a common understanding of the goals of any court reforms they seek to implement to improve domestic violence case management. The development of goals and of the components, processes, and services to meet those goals should be a collaborative process that involves law enforcement, prosecution, the defense, probation, community and government service providers, and the victim advocacy community. Addressing problems and gaps in the court process only, without consideration for operational, resource, or mission issues in other parts of the system, will frustrate the courts' efforts and limit their effectiveness. Court planners and policymakers also should become informed by the experiences of other courts that have implemented systems to increase victim safety, batterer accountability, and public trust and confidence that the judicial process will benefit domestic violence survivors who seek the remedies it offers. Practitioners in the domestic violence service community and in other parts of the justice system should work cooperatively with judges and court managers to ensure that they understand the needs, limitations, and resources that their potential collaborators bring to the effort.

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