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La Plata County, Colorado, Arrest Policies Project

A Process Evaluation

April 3, 2000

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Prepared for
**La Plata County, Colorado
National Institute of Justice
Violence Against Women Office**

Introduction

The Grants to Encourage Arrest Policies Program encourages jurisdictions to implement mandatory or pro-arrest policies as an effective domestic violence intervention that is part of a coordinated community response. Congress appropriated funds for the Arrest Program under the Violence Against Women Act (1994). The Program assumes that the arrest of a batterer will leverage the coercive and persuasive power of the criminal justice system to ensure victim safety and manage the behavior of abusive, violent offenders. Ensuring victim safety and offender accountability are the guiding principles underlying the Grants to Encourage Arrest Policies. The Violence Against Women Act directs that the Arrest Program funds be used to

- Implement mandatory arrest or pro-arrest programs and policies in police departments, including mandatory arrest programs or pro-arrest program and policies for protection order violations;
- Develop policies and training programs in police departments and other criminal justice and tribal agencies to improve tracking of cases involving domestic violence;
- Centralize and coordinate police enforcement, prosecution, probation, parole or judicial responsibility for domestic violence cases in groups or units of police officers, prosecutors, probation and parole officers or judges;
- Coordinate computer tracking systems to ensure communication between police, prosecutors, and both criminal and family courts;
- Strengthen legal advocacy service programs for victims of domestic violence by providing complete information and support for a victim of domestic violence as the case against her abuser moves through the criminal justice system; and
- Educate judges, and others responsible for judicial handling of domestic violence cases, in criminal, tribal, and other courts about domestic violence to improve judicial handling of such cases.

The Institute for Law and Justice, Inc. (ILJ) is conducting a national assessment of the Grants to Encourage Arrest Policies Program, which is funded by the National Institute of Justice. ILJ is using a three-stage methodology for this evaluation. First is an annual national assessment of all sites that will document the type and scope of projects funded. Second, a process evaluation of twenty sites will examine the process and problems associated with implementation of the project. And third, an impact evaluation of six sites will assess the impact

of the project on the agencies involved, victim well-being, offender accountability, and community coordination.

This report is a process evaluation of the Arrest Program in La Plata County, Colorado. The project received \$132,948 for an 18-month period beginning March 1, 1997. The continuation grant was for an additional \$309,000 and covered operations through May 31, 2000. Information for this report derives from staff interviews, courtroom observation, program documentation, and a review of local statistics.¹

Project Environment

The Arrest Program requires the applicant to be a state, county, tribal government, or unit of local government. La Plata County is the official applicant of this Arrest project, although the grant covers Colorado's entire Sixth Judicial District (La Plata, Archuleta, and San Juan Counties). The lead agency is the District Attorney's Office. This project is referred to as the Southwest Colorado Domestic Violence Project. This section provides an overview of the District, including demographics, the criminal justice system, non-profit community, Colorado laws, and fast-track prosecution.

Exhibit 1: Map of Colorado's Sixth Judicial District



¹ A site visit was conducted July 19-23, 1999.

Demographics

Colorado's Sixth Judicial District, located in the southwestern corner of the state, has a population of 50,056 (1998 population estimate). The vast majority of the population (81 percent) is concentrated in La Plata County (pop. 40,413). Within La Plata County, the largest city is Durango, with a population of 13,854. The District's population is mostly white, with a significant Hispanic community (ranging from 11 percent in La Plata County to 23 percent in Archuleta County) and a small Native American population (2 to 4 percent).² The District is bordered by the Southern Ute Indian Reservation to the south. Exhibit 1 is a map of the Sixth Judicial District.

Criminal Justice System

This project, originating in the District Attorney's Office, takes place in a criminal justice system that includes eight law enforcement agencies, the District Attorney's Office, County and District Court, and the Sixth District Probation Department.

Law Enforcement

There are eight law enforcement agencies in the Sixth Judicial District.³ The two major law enforcement agencies are the Durango Police Department and the La Plata County Sheriff's Office. In 1998, 476 domestic violence incidents were recorded in the District. Of these, the Durango Police Department recorded 203 incidents (43 percent) and the La Plata County Sheriff's Office responded to 186 incidents (39 percent). The Archuleta County Sheriff's Office responded to 10 percent (49) of incidents. These three agencies accounted for 263 of the 295 domestic violence related arrests in the Sixth District (89 percent of arrests).

The law enforcement agencies do not have designated staff to handle domestic violence incidents. Although there are no specialized units, most of the law enforcement agencies acknowledge the special demands of domestic violence by participating in the Violence Prevention Coalition of Southwest Colorado and by providing their officers with domestic violence training. The Durango Police Department is the most active law enforcement agency in

² These figures derive from the 1990 Census.

³ Archuleta County Sheriff's Office, Bayfield Marshal's Office, Southern Ute Police Department, Ignacio Police Department, Pagosa Springs Police Department, San Juan County Sheriff's Office, Durango Police Department, and La Plata County Sheriff's Office.

the area of domestic violence, as demonstrated by the strong participation and leadership of the Division Commander of Administration on the coalition.

District Attorney's Office

The District Attorney's Office, based in Durango, prosecutes criminal cases in both District and County Courts. The current District Attorney was initially appointed by the governor and later elected to office in 1996. The Office has seven attorneys and a Victim/Witness Unit. Arrest Program funds were used to create a Domestic Violence Unit within the District Attorney's Office. The Unit consists of an Assistant District Attorney and a victim advocate. The Unit has handled over 300 domestic violence cases per year since its inception in 1997.

The Courts

In the state of Colorado, County Court is the court of limited jurisdiction, handling misdemeanors, traffic infractions, small claims, felony complaints (which may be sent to District Court) and civil cases under \$10,000. The District Court is the court of general jurisdiction—it handles criminal, civil, domestic relations, juvenile, probate, mental health, and water cases. The Sixth Judicial District has two district judges, three county judges, and two magistrates.

Magistrates are appointed by the Chief Judge of the Judicial District and can hear cases only by the consent of both parties. The District magistrate plays an important role in the Arrest Program in the Sixth Judicial District. The magistrate, specially trained in domestic violence, advises defendants of their rights, and oversees the first appearance hearings, which include the acceptance of plea bargains. Domestic violence misdemeanor trials are heard in front of the County Judge while a District Judge hears felony charges of domestic violence.

Probation Department

The Office of Probation Services is a state agency under the responsibility of the Colorado Judicial Branch. Each district has a Probation Department, managed by the Chief Probation Officer. The Probation Department provides assessments and pre-sentence information to the courts, supervises offenders sentenced to community programs, and implements special program services. The Sixth Judicial District Probation Department has a

specialized domestic violence unit comprised of a full-time probation officer and a victim advocate.

State law mandates victim services programs for probation departments. Victim assistance staff notify victims of their rights under Colorado’s Victims’ Rights Amendment. The Probation Department is also charged with responding to victims’ requests for information regarding absconion, early termination, transfer, change of venue, revocation, death, and disposition. In the Sixth Judicial District, a special program, overseen by a Victim Assistance Coordinator, uses volunteers to respond to victims’ needs and supervise minimum risk offenders.⁴

In 1996, the Chief Justice directed that domestic violence perpetrators be screened for risk, with those identified as high-risk receiving further assessment. The Office of Probation Services developed the Domestic Violence Screening Instrument (DVSI) and later adopted the Spousal Assault Risk Assessment (SARA). The Arrest project funds an evaluator to provide domestic violence assessments free of charge to the offender.

Non-Profit Community

There are two partnering community organizations in the Arrest Program—Violence Prevention Coalition of Southwest Colorado (VPC) and Alternative Horizons. Both non-profit partners are responsible for meeting specific project goals. These organizations are also crucial to the development of a coordinated community response to domestic violence.

Violence Prevention Coalition of Southwest Colorado

The Violence Prevention Coalition of Southwest Colorado, locally referred to as the Violence Prevention Coalition (VPC), began in 1987 when a group of community leaders met to discuss the problem of domestic violence in the Sixth District—which then had one of the highest rates in the state of Colorado. The District Attorney played a crucial role in the formation of the VPC, and the District Attorney’s Office continues to provide office space for Coalition staff.

⁴ The Victim Assistance Coordinator’s salary is paid through VOCA (Office of Victims of Crime Act) grant funds.

In 1988, Coalition members and agency representatives developed and implemented a “no-drop” prosecution protocol and a mandatory arrest policy for law enforcement—six years before mandatory arrest became Colorado State law. The Violence Prevention Coalition’s ongoing mission is to provide coordination, training, monitoring, and other services to the District. The Coalition is headed by an elected Board of Directors and has five standing committees:

- Executive Committee
- Public Education Committee
- Tracking Committee
- Policy Committee
- Training Committee.

The VPC, active in the areas of both domestic violence and sexual assault, recently added stalking and marital rape subcommittees to its organization. The Coalition operates cellular telephone and recording device loan programs, oversees administration of grant funds, and provides program evaluation.

Alternative Horizons

Alternative Horizons is the local domestic violence victim advocacy organization and a non-profit partner on this project. Alternative Horizons responded to approximately 1,335 requests for service from 498 victims during 1998. In addition to providing resources to domestic violence victims, this organization operates a court advocacy program.⁵ In 1998, the court advocate assisted 230 victims and worked with 155 restraining orders.

As part of the Arrest project, Alternative Horizons added legal representation as a service to domestic violence victims. Arrest grant funds are used to supplement the contract of an attorney who coordinates a pro bono program to provide legal representation for victims in protection order hearings, especially in cases where the perpetrator has legal counsel. The attorney also provides legal services, at no cost to the victims, in civil court for divorce, custody, and visitation issues.

⁵ The court advocacy program is funded through STOP Violence Against Women Formula Grant funds.

Colorado Laws

Domestic violence, as defined in C.R.S. § 18-6-800.3(1), is “an act or threatened act of violence upon a person with whom the actor is or has been involved in an intimate relationship.” “Domestic violence” also includes any other crime against a person or against property or any municipal ordinance violation against a person OR against property, when used as a method of coercion, control, punishment, intimidation, or revenge directed against a person with whom the actor is or has been involved in an intimate relationship.” C.R.S. § 18-6-800.3(2) defines an “intimate relationship” as a “relationship between spouses, former spouses, past or present unmarried couples, or persons who are both the parents of the same child regardless of whether the persons have been married or have lived together at any time.”

Colorado statutes also call for a mandatory restraining order against any person charged with a domestic violence violation. C.R.S. § 18-1-1001(1) requires that the order “remain in effect from the time that the person is advised of his or her rights at arraignment or the person’s first appearance before the court and informed of such order until final disposition of the action.” The statute goes on to mandate that defendants released on bail in cases involving domestic violence are provided with the terms of the restraining order on the record. The court is required to acknowledge the restraining order as a condition of any bond for the release of the defendant.

Under state law, domestic violence is not a statutory crime; it is a sentencing enhancement. The preferred sentence is participation and completion of an approved batterer intervention program. Under C.R.S. § 18-6-801.1, all domestic violence offenders are subjected to an intake evaluation conducted by a certified treatment provider. The batterer will be referred back to court for alternative disposition if the evaluator deems that sentencing to a treatment program would be inappropriate.

State law discourages mutual arrests. C.R.S. § 18-6-803.6(2) states:

If a peace officer receives complaints of domestic violence from two or more opposing persons, the officer shall evaluate each complaint separately to determine if a crime has been committed by one or more persons. In determining whether a crime has been committed by one or more persons, the officer shall consider: (1) any prior complaints of domestic violence; (2) the relative severity of the injuries inflicted on each person; (3) the likelihood of future injury to each person; and (4) the possibility that one of the persons acted in self defense.

Fast Track Prosecution

The Southwest Colorado Domestic Violence Project takes place in the context of fast track prosecution. Since fast track plays a central role, some attention must be paid to the practice itself. Fast track prosecution of domestic violence cases occurs in several districts in the state of Colorado and continues to expand. The Sixth Judicial District referred to the fast track project in Mesa County (Colorado's 21st Judicial District) as their model. Fast track is not unusual in other contexts, most commonly drug courts.

In traditional first appearance hearings, defendants appear before a magistrate or judge at which time they are informed of specific charges and their constitutional rights, and bail or other conditions of pretrial release are determined. First appearance hearings are also used as the locus of initial determinations of defendants' eligibility for public defender representation. In minor cases, the court may accept a plea at the first appearance. If there is no plea, the case will then proceed to preliminary hearing. Felony arraignment and trial may follow.

Fast track is applied to first-time misdemeanor domestic violence cases only. Under this program, the emphasis in the first appearance hearing is on the plea. Since local judges have not implemented a "no bond" policy, most defendants are not in custody at the first appearance.⁶ Typically, the defendants have been released under no contact orders. Under state law, defendants may plead guilty without benefit of counsel where the District Attorney stipulates to the court that there is no intent to seek a jail sentence.⁷ Without such a stipulation, there is a constitutional right to an attorney in cases where a jail sentence may result.

Although the District Attorney has jurisdiction over all criminal cases in the Sixth Judicial District, fast track prosecution is limited to the La Plata County Combined Court. In Archuleta and San Juan Counties, specific days are designated to hear domestic violence cases. For example, in Archuleta County, domestic violence cases are heard the first Thursday following the incident.

⁶ Local staff estimate that about 10 percent of domestic violence defendants are in custody at first appearance.

⁷ According to C.R.S. § 16-5-501, the prosecuting attorney *may* state in writing whether or not he will seek incarceration as part of the penalty upon conviction of an offense for which the defendant has been charged.

Under fast track, when law enforcement officers make an arrest at the incident scene, they present the victim with a ‘Notice to Appear.’ Although the ‘Notice to Appear’ has no potential legal ramifications,⁸ it clearly states:

You are hereby notified to appear. Failure to appear may result in disposition of the case without your presence or may result in prolonged court proceedings and personal service of process upon you.

The ‘Notice to Appear’ instructs victims to appear at the District Attorney’s Office at a designated time on the first business day following arrest to meet with two advocates: a non-profit court advocate employed by Alternative Horizons and the District Attorney’s Victim Advocate. The notice also includes advocate contact information, should the victim prefer to contact the advocate by telephone rather than in person.

Defendants appear in front of the magistrate where they are advised of their rights. The domestic violence prosecutor meets with defendants only after they have been fully and thoroughly advised by the magistrate. After the magistrate has advised the defendant and explained the role of the District Attorney as a prosecutor for the state rather than defendant counsel, the magistrate gives the defendant the option of meeting with the prosecutor. The magistrate also makes it clear that if the defendant feels uncomfortable meeting with the prosecutor, the case can be reset.

While the advocates assist victims, the domestic violence prosecutor meets with defendants in the courtroom, informs them of their right to counsel, reviews the incident reports with them, and offers a plea. Defendants then appear in front of the magistrate who can record their pleas into the record at that time. In general, defendants do not have counsel present during plea negotiations, and most defendants waive their right to counsel to expedite the case. Defendants who accept the plea are routinely sentenced to the domestic violence intervention program and one year probation.

The application of fast track prosecution is controversial. For this reason, a separate discussion of the advantages and disadvantages of fast track is warranted. The following discussion represents a diverse array of opinions, which do not necessarily coincide with all

⁸ The District Attorney’s Office does not issue a summons or cite the victim for failure to appear.

interested local parties.⁹ In addition, some of the differences in opinion result from ambiguity in Colorado statutes—ambiguity that can only be clarified through higher court decisions or revisions to statutory language.

Advantages

There are several advantages to fast track:

1. Defendants are sentenced to treatment faster.
2. Victims receive in-person advocacy support.
3. The courts become more efficient.
4. Probationers are supervised.

Faster Treatment. Defendants are sentenced to treatment faster. The program’s premise is that faster referral to treatment will reduce recidivism by interrupting the cycle of violence. The cycle of domestic violence involves a pattern of tension-building and violence, followed by reconciliation. The major advantage of fast track prosecution is the swiftness of intervention. Since defendants appear in court the business day following the offense, they are more likely to feel remorseful and accept responsibility for the incident. Those who plead guilty are then able to enter into a treatment program, oftentimes within a month after the incident. Some professionals in the Colorado criminal justice system indicate that the quicker turnaround in the court system leads to better treatment completion rates and lower recidivism rates.¹⁰

In-Person Advocacy Support. A second component of fast track is that victims receive in-person advocacy support. Nearly all victims who receive a ‘Notice to Appear’ at the time of the incident attend a session with advocates. In this session, the non-profit advocate discusses local resources, while the District Attorney’s victim advocate informs the victim of the court process and the likelihood that the defendant will be required to participate in a treatment program. This personal meeting with advocates is intended to provide the victim with knowledge and resources, and should enhance victim safety. The fact that this meeting occurs within one business day of the incident results in fewer recantations.

Court Efficiency. Another advantage to fast track is increased efficiency in the courts. In La Plata County, a magistrate who is an inferior judicial officer, handles fast track hearings. If

⁹ In addition to interviews with local program staff, telephone inquiries resulted in information from the public defender’s office and the state’s Court Watch program.

¹⁰ Solid research documenting this relationship has not been found.

the defendant pleads guilty and accepts the prosecutor's terms of the sentence, the case is closed—requiring no further action from the courts. In addition to greater court efficiency, fast track also decreases the amount of time law enforcement officers must spend in court.

Supervision of Probationers. Fast track prosecution, as implemented in Colorado, is coupled with sentences to treatment and probation. Under this program, defendants receive treatment geared toward their specific needs and most importantly, probation officers work with treatment providers to monitor attendance and participation. The Sixth Judicial District has increased the variety of treatment options, thereby enhancing their flexibility in supervising domestic violence probationers.¹¹ Ultimately, the combination of swift prosecution, treatment, and supervision is a positive outcome and goes a long way toward meeting the goal of community safety.

Disadvantages

The implementation of fast track has several disadvantages, including the following:

1. The process raises serious constitutional issues.
2. The system depends on the integrity of the entire criminal justice system.
3. Fast track may disadvantage those who cannot afford counsel, and quite possibly, women defendants.
4. Fast track requires additional probation resources.
5. Fast track prosecution does not allow for alternative sentencing.

Constitutionality Issues. Public defenders and defense attorneys have raised concerns regarding the constitutionality of fast track. Of key concern is the lack of counsel during plea negotiations—state law provides that indigents are not entitled to counsel at the state's expense where incarceration will not be sought.¹² Even in those cases where jail is sought, indigent defendants are extremely unlikely to secure the services of a public defender.¹³ Defense attorneys also point out that defendants may feel coerced into pleading guilty in the belief that it will eliminate future court hearings and the need to take time from work to attend court. These

¹¹ The State recently added 4.5 full-time employees to the Sixth Judicial District Probation Department.

¹² Under C.R.S. § 16-5-501, indigent defendants are not entitled to a public defender “if the prosecuting attorney does not seek incarceration as part of such penalty.”

¹³ According to the public defender's office, high caseloads and insufficient funding logistically result in the denial of legal representation to defendants accused of misdemeanor charges. Statewide, the public defender's office prioritizes representation for defendants charged with felony-level crimes. Consequently, virtually no fast track indigent defendants will obtain the services of a public defender.

constitutional problems can arise when defendants are placed on probation and subject to jail time if they violate the terms and conditions of probation.¹⁴ The constitutionality of fast track remains to be determined; appealed cases have not yet reached the Colorado Supreme Court.

System Integrity. Fast track prosecution depends on the integrity of the entire criminal justice system. Law enforcement must make appropriate arrests with adequate documentation; the prosecutor must decide which cases to prosecute based on the evidence, and the magistrate must ensure that defendants are notified of their rights and understand the nature of the charges. Since fast track increases the number of guilty pleas, and hence, the District Attorney's conviction rates, there may be an unstated incentive to prosecute borderline cases. In the Sixth District, there is evidence that police are making too many mutual arrests and arrests of self-defending victims. By law, officers are required to conduct a primary aggressor analysis. Yet mutual arrests occur and both the victim and the abuser enter the fast track system where the prosecutor must determine the merit of charges against both parties. Fast track makes it easier to convict both parties, especially since the District Attorney's Office does not have an explicit policy on handling mutual arrest cases.

System Bias. Fast track disadvantages those who cannot afford counsel and may also disadvantage women defendants. In the criminal justice system, research has noted the strong relationship between social class and the likelihood of arrest and conviction. In fast track, the social class issue becomes even more troublesome as so few defendants have resources to hire an attorney and, being first time offenders, may not have an understanding of the criminal justice system. Defendants who can obtain an attorney and postpone court proceedings are likely to be advantaged not only by counsel, but also by the fact that the victim is likely to recant over time. Such cases are less likely to result in prosecution and conviction. In addition to social class biases, some local observers believe that fast track disproportionately disadvantages female defendants, some of whom may be self-defending victims. The trauma of jail, combined with the strong desire to quickly close the case to be home with children, may impact women differently than men. In fact, the Sixth Judicial District recently developed a ten-week diversion program to respond to the high numbers of women convicted under fast track (assessments

¹⁴ Local officials state that the prosecutor's promise prior to sentencing that no jail will be imposed as part of the agreement is not binding at revocation proceedings. Furthermore, defendants are protected in the context of potential revocation because they are again formally advised of their rights to counsel.

indicated that many of these convicted women were self-defending victims of domestic violence). The introduction of such a program in itself indicates that fast track prosecution may be inappropriately convicting self-defenders.

Probation Resources. Fast track requires additional probation resources. Fast track results in an increase in the number of probationers; this stretches probation resources that may already be strained. While the State and the Sixth Judicial District have responded to this need by adding more staff, fast track prosecution clearly increases probation caseloads and requires an influx of public funding to ensure proper supervision of probationers. Fast track also places additional burdens on treatment providers who may be requested to develop new programs for different types of batterers. Treatment providers must also deal with increasing enrollments while accommodating probationers with inadequate financial resources.

Alternative Sentencing. Fast track does not allow for any intensive assessment prior to the plea agreement. Because first-time domestic violence defendants prosecuted under fast track are not subject to jail time, all offenders are sentenced to treatment regardless of the level of danger they present to the victim and the community. Those convicted of domestic violence crimes do undergo an evaluation that is used to primarily place them in the appropriate treatment program. This assessment and corresponding increase in variety of treatment programs offers greater flexibility and enhances the likelihood of offender accountability. Yet the unavailability of alternative sentencing (including jail time), and the speed at which the cases are resolved tie the judge's hands in terms of fast track sentencing.

Planning and Implementation

The Southwest Colorado Domestic Violence Project is discussed in terms of the proposed plan and project implementation. The original proposal was submitted in 1996. Project implementation was underway in 1997.

The Proposal

The VPC Coordinator, in conjunction with the Acting District Attorney, wrote the original proposal, which was submitted in September 1996. Continuity in the District Attorney's Office was not assured as the Acting District Attorney was a candidate in a contested election in November 1996. The project could not succeed without leadership from the District Attorney

and in order to secure funding, both candidates for District Attorney pledged their support of the Arrest project. The Acting District Attorney claimed victory in the election and has been instrumental to project implementation.

The proposal called for fast track and vertical prosecution. This required considerable accommodation from the bench, a key concern during the planning stage. The VPC Coordinator, District Attorney, and judges felt that the best way to implement fast track was through the use of a District magistrate who could devote adequate time to properly advise defendants and accept pleas. The court already had a half-time magistrate hired through grant funds and it was decided that this individual could also handle the domestic violence fast track cases. The County Court Judge would handle misdemeanor domestic violence trial cases. This solution required little extra effort from the bench and had the potential of decreasing the number of domestic violence cases heard by the judges.

The original proposal outlined three goals:

1. To substantially improve the capacity of law enforcement agencies and the prosecutor's office to handle all domestic violence cases in a manner consistent with the provisions of the Domestic Violence Law Enforcement Policy and the Domestic Violence Prosecution Protocol currently in place, through the creation of a Domestic Violence Prosecution Unit.
2. To develop and implement innovative strategies, both to substantially improve the prosecution of domestic violence cases and to increase the range of types of cases prosecuted.
3. To redesign the centralized domestic violence case tracking system currently in use to substantially increase its efficiency and usefulness.

The proposal for supplemental funding, submitted in April 1998, identified two additional goals:

4. To strengthen judicial management and supervision of domestic violence cases through implementation of specialized, coordinated Court and Probation Department programs.
5. To strengthen legal advocacy for battered women and their children in the Sixth Judicial District as they strive to gain independence from a perpetrator by seeking civil restraining orders, divorces, and other civil action, through partial support of a part-time attorney to staff Alternative Horizons' legal project.

Project start-up involved the creation of a domestic violence unit and the development of a database. Initial grant funds were used to fund a full-time Deputy District Attorney and a full-time Victim Advocate. In addition, part of the salary of the VPC Coordinator was funded

through the Arrest Policy grant. The continuation grant included funding for the following positions:

- Deputy District Attorney (1 FTE)
- Victim Advocate (1 FTE)
- Violence Prevention Coalition Coordinator (.25 FTE)
- Magistrate (.5 FTE)
- Domestic Violence Evaluator (.5 FTE)
- Civil Attorney (.35 FTE).

In addition to these positions, the project received unsolicited funds from the Violence Against Women Office to be used for an additional Victim Advocate.

Implementation

Project implementation required (1) the creation of a domestic violence unit; (2) database development; (3) incorporating judicial oversight and probation into the project; and (4) strengthening legal advocacy. The District Attorney's Office was responsible for the overall achievement of goals. The Probation Department oversaw the probation component and the evaluation of domestic violence offenders. Alternative Horizons managed the legal advocacy component while the VPC Coordinator was responsible for the database development.

Domestic Violence Unit

Creation of the Domestic Violence Unit began with the hiring of a Deputy District Attorney. The individual hired, a recent law school graduate, had clerked at the District Attorney's Office prior to law school and was familiar with local court operations and personnel. The Deputy District Attorney was hired in March 1997 and became the project coordinator for the Arrest project. On May 1, 1997, the new unit, comprised of the Deputy District Attorney and a Victim Advocate, was officially recognized. The Domestic Violence Unit has the following responsibilities:

- Vertical prosecution;
- Training;
- Victim advocacy;
- Policy development;
- Interagency coordination; and
- Grant administration.

Vertical Prosecution. All domestic violence cases (fast track, misdemeanors, and felonies) were to be handled by the special prosecutor and victim advocate. Vertical prosecution was implemented alongside fast track prosecution in La Plata County. In fast track cases, the prosecutor meets with the defendants after the judge advises them. If a disposition is reached, the defendant is sentenced the same day and routinely ordered to contact the Probation Department before leaving the courthouse. Fast track limits the need for jury trials and makes vertical prosecution easier to implement since there are fewer court hearings.

While fast track was being implemented in La Plata County, the Domestic Violence Unit had to develop a scheme that would allow for vertical prosecution in the neighboring counties of San Juan and Archuleta. These courts receive fewer number of domestic violence cases, which has enabled the prosecutor to designate special days in which domestic violence cases will be heard. This solution enables the domestic violence prosecutor to essentially cover nearly all domestic violence crimes in the district. The prosecutor teams with another Deputy District Attorney on complicated felony cases, and other attorneys may be assigned domestic violence cases when the special prosecutor is unavailable.

Vertical prosecution has led to changes in the way domestic violence crimes are defined, tried, and sentenced. The domestic violence prosecutor has expanded the notion of domestic violence to include non-assault crimes, such as criminal trespassing, theft, animal cruelty, and wiretapping. The prosecutor has also successfully tried cases where the victim has recanted—relying on 911 dispatch tapes, photographs, written victim statements, and domestic violence experts, to make a case. Sentencing has become more consistent. In addition to consistent sentencing, vertical prosecution has reportedly led to a decline in the number of deferred sentences.

Training. The Domestic Violence Unit provides ongoing law enforcement training. The domestic violence prosecutor and advocate, in conjunction with the VPC Coordinator and members, are primarily responsible for training. The prosecutor and other project participants attended various trainings, such as those sponsored by the Arrest Policies technical assistance provider (Battered Women’s Justice Project), to prepare them for leading local training exercises. Some of the topics discussed in training over the course of the grant include:

- Dynamics of domestic violence

- Enforcement of restraining orders
- Investigation techniques
- Evidentiary needs for prosecution
- Primary aggressor analysis
- Fast track prosecution
- Substantive criminal law
- Victim services
- 4th and 5th Amendment issues
- Domestic violence “charging”
- Domestic violence in same sex relationships.

One of the difficulties encountered by the Unit in implementing training was the lack of funds for officers’ overtime. In a rural jurisdiction, where few officers can be spared during shifts, overtime is especially critical. The Unit, along with Alternative Horizons and the Violence Prevention Coalition, was able to obtain state funds to pay for officers’ overtime. In addition, the Unit conducted roll-call trainings to ensure that all officers in every police department received a minimal standard of training.

Victim Advocacy. The domestic violence advocate is assigned the task of contacting victims to solicit their input for prosecution and to provide information regarding prosecution, sentencing, and post-sentence follow-up. The Arrest project aims to make advocacy contact with all victims.¹⁵ Prior to the creation of the Unit, advocates did not document their contact with victims. Thus, one of the Unit’s first tasks was to create a ‘Victim Contact’ form. This form documents comments and input from the victim, the status of victim impact statements, safety issues, and referrals.

In addition to the ‘Victim Contact’ form, the Unit worked with law enforcement to create the ‘Notice to Appear.’ The documentation of contacts, along with the ‘Notice to Appear,’ appears to have positively impacted the number of victims who cooperate with prosecution. Local sources identify three types of cases in which advocates are not able to make contact with victims. First, advocates are not able to make contact with victims who are also offenders via their dual arrest status. Second, law enforcement does not always provide a ‘Notice to Appear,’ particularly in cases where a restraining order is violated. Consequently, the victim fails to

¹⁵ Victim advocacy occurs in the context of the state’s Victims’ Rights Statutes. In particular, the Unit has worked with the VPC, Alternative Horizons, law enforcement, and jail staff to develop and implement protocol on victim notification. The protocol details crimes to which the Victims’ Rights Statutes apply, booking procedures, and notification of victims by detention centers.

appear at the District Attorney’s Office and the advocate may not have contact information. Third, some victims simply fail or refuse to appear.

Policy Development. One of the goals of the Arrest project was to develop and implement innovative prosecution strategies. These strategies would apply to the following areas:

1. Stalking;
2. Sexual violence in intimate relationships; and
3. Repeat offenders.

Originally, the Arrest project was to include a focused effort to prosecute stalking and marital rape cases, and to develop a policy on repeat offenders. However, the District Attorney’s Office received just one stalking case and no cases involving sexual violence in intimate relationships.¹⁶ The lack of cases called for a revision of project plans to develop policy rather than strategies.

Policy development is a function of the District Attorney’s Office and the Violence Prevention Coalition. The VPC has a Policy Committee that specifically meets to create and revise domestic violence and sexual assault policies. The Policy Committee is made up of representatives from the District Attorney’s Office, Probation Department, law enforcement agencies, domestic violence treatment providers, and victim advocates. Policy development has been a collaborative exercise among various agencies and organizations.

Prosecution of stalking cases is almost non-existent in the state—primarily due to varying interpretations of Colorado’s stalking statutes.¹⁷ The Unit, along with the VPC, analyzed Colorado’s stalking laws and worked to develop a “model” statute that would expand the existing legislation. The domestic violence prosecutor shared these proposed revisions with the Colorado District Attorneys Council and the Colorado Coalition Against Domestic Violence in an effort to propose new legislation. A new bill is in the preliminary stages in the current legislative session.

The second area of innovation—the prosecution of sexual assault in the context of intimate relationships—proved extremely difficult since these types of crimes are seldom reported. While policy development was initiated in the areas of stalking and repeat offenders,

¹⁶ Since this site visit, the District Attorney’s Office has prosecuted four cases involving sexual assault in the context of an intimate relationship.

project participants believed that the best approach to the topic of marital rape was law enforcement training. Alternative Horizons, along with the VPC and the District Attorney’s Office, organized training for local law enforcement on marital rape. Grant funds were also used to send the VPC Coordinator to a national conference consisting of workshops on marital rape.¹⁸

The prosecution of repeat offenders was a third subject to be addressed in the Arrest project. The Unit, in conjunction with the VPC, proposed to develop guidelines for handling repeat offenders. This would include a prosecution protocol, Probation Department guidelines, and domestic violence treatment rules for repeat offenders. At the time of this site visit, the Policy Committee was working on the creation of a “Repeat Offender Policy.” While policies have not yet been specified, in practice the domestic violence prosecutor typically seeks jail sentences for repeat offenders, and the Probation Department supervises repeat offenders in a more aggressive manner—often requiring probationers to participate in strict conditions such as alcohol and mental health counseling. In addition, the major treatment provider developed an intensive treatment program especially for repeat offenders.

Interagency Coordination. Historically, interagency coordination has been the responsibility of the Violence Prevention Coalition. The VPC has oversight over several domestic violence grants, including VAWA state block grants. However, the District Attorney’s Office is designated the lead agency and is the recipient of the Arrest funds. In reality, the VPC has a more limited role in this project while the domestic violence prosecutor, as Project Director, plays a key role in the development of interagency coordination. Primarily, this involves working with the VPC, Alternative Horizons, local law enforcement, the Probation Department, treatment providers, and judges.

Interagency coordination has been affected by personnel changes. There has been turnover in both the Unit’s advocate position and the VPC Coordinator. In particular, the departure of the Unit’s first advocate has resulted in a noticeable decline in interagency communication and collaboration. Furthermore, turnover in the VPC Coordinator position prior

¹⁷ In January 1999, the Colorado Supreme Court upheld the state’s anti-stalking statute. A district court had earlier ruled the law unconstitutionally vague.

¹⁸ In addition, officers from the Durango Police Department attended a statewide conference on sexual assault and stalking.

to the grant award, required some adjustments to the partnership between the VPC, Alternative Horizons, and the District Attorney's Office.

Within the criminal justice system, the domestic violence prosecutor has advanced interagency coordination by undertaking the following tasks. First, the prosecutor has fostered a relationship with law enforcement by providing on-call assistance, roll call training, and regular feedback regarding their domestic violence cases. Second, the prosecutor works closely with courts and probation to ensure that the Unit receives timely notification of a defendant's failure to comply with sentences. Third, the prosecutor has worked with judges to create special domestic violence days, implement fast track, and create a system for modifying bond conditions.

The relationship between the District Attorney's Office and its non-profit partners has been impacted both by turnover and the implementation of fast track. At the time of this site visit, the District Attorney's domestic violence advocate was new to the position and some transitional adjustments were ongoing. In particular, there was some ambiguity regarding the job responsibilities of the Unit's advocate. More critical to this discussion is the impact of fast track. The relatively high number of cases reaching fast track involving women defendants, arrested either in the context of dual arrests or as the primary aggressor, has the potential of dividing the domestic violence community. The non-profit partners believe that many of these women are self-defending victims and as such, should receive support and resources from criminal justice agencies and local providers. This perception is in direct odds with the District Attorney's Office, which is charged with prosecuting defendants, regardless of sex. Unfortunately, this controversy is often played out in court as the victim may receive a referral card from the non-profit advocate while being charged and prosecuted with a domestic violence crime by the prosecutor. Staff from the District Attorney's Office have expressed frustration with the non-profit partners in this context and the appearance of compromise this sets in the courtroom. Interagency coordination and collaboration between the District Attorney's Office, the Department of Probation, and the non-profit community is an ongoing challenge.

Grant Administration. The domestic violence prosecutor also acts as grant administrator. Grant management includes writing status reports for the Violence Against Women Office, reviewing goals and performance, and overseeing project operations. Project

expansion, more specifically, the addition of the probation component, has raised concerns over authority. While the District Attorney's Office has oversight of the entire project, the District Court Administrator/Chief Probation Officer is responsible for the evaluation and probation components. Fortunately, the Chief Probation Officer has taken an active interest in the project, and any turf issues and differences of opinion have been minimized.

Delegation of responsibilities and decision-making play important roles in grant administration. A central theme of the Arrest Policies project is partnership—criminal justice agencies are required to partner with local non-profit organizations. The non-profit partners, and the Probation Department, do not have an equal voice in the direction of the Project. Some local project participants have expressed concern with Project administration, comparing the Arrest Policies grant, which goes directly to the District Attorney's Office, with state STOP grants that use the Violence Prevention Coalition as a conduit. The District Attorney's Office has not been as open to suggestions as some would prefer. Furthermore, some local participants would like to see better attendance by the District Attorney at VPC meetings, especially Policy Committee meetings.

Database Development

The VPC Coordinator is responsible for the development of a database to be designed for the primary purpose of case tracking. Prior to the Arrest project, a case tracking system was in operation but it was not compatible with the District Attorney's database. The tracking system consisted of a stand-alone computer and required manual data entry from various components of the criminal justice system. The current system is now compatible and includes data on arrests, prosecutions, violations of restraining orders, probation revocations, and post-sentencing on domestic violence and sexual assault cases. The case tracking system actually contains more information than the District Attorney's database. For instance, the VPC system tracks incidents where no arrests are made. Recently, the database has been used to document trends in the number of females arrested for domestic violence crimes.

The data is used in two ways. First, the information is used to compile statistical reports for the VPC membership and the District Attorney's Office. Reports include arrest rates, conviction and dismissal rates, recidivism rates, restraining order and bond condition violations, post-sentence compliance, and dual arrests. Second, the tracking system is used by the VPC's

Tracking Committee to identify gaps in the criminal justice system and formulate improvements. As an example, the committee used the tracking system to examine each law enforcement agency's record in female and dual arrests.

Judicial Oversight and Probation

There are three components of judicial oversight and probation.¹⁹ First, the courts established a magistrate position to hear fast track cases in La Plata County. Second, an evaluator was hired to conduct formal evaluations of domestic violence defendants. Third, the Probation Department hired a special domestic violence probation officer, who works with advocates, to supervise probationers.

Judicial Oversight. The creation of the new domestic violence prosecution unit and the implementation of fast track were accomplished in the context of changes in judicial administration. Initially, the Southwest Colorado Domestic Violence Project did not include a magistrate. The District Court Administrator, who is also the Chief Probation Officer, responded to the new Unit by using a small amount of funds originally set aside for a Court Clerk to add some hours to the position of a County Court magistrate who was already handling juvenile cases. This allowed the magistrate to handle the domestic violence fast track program and restraining order hearings in La Plata County. The magistrate position was budgeted into the second Arrest Policies proposal.

Another development in program implementation was the designation of domestic violence days in the Archuleta County Court. This court created a calendar whereby domestic violence cases would be heard by the judge every Thursday.²⁰ Defendants are ordered to appear in court on the next available Thursday, at which time the judge issues restraining orders and bond conditions. If the prosecutor is present at the defendant's first court appearance, the prosecutor will attempt to resolve the case at that time.

Judicial administration within the larger District also underwent some changes as a result of the specialized unit. Prior to the Unit, there was inconsistency in bond conditions set by judges. The domestic violence prosecutor worked with the judges to develop a more uniform

¹⁹ Not all components are funded through the Arrest Policies grant.

²⁰ Prior to the domestic violence unit, the Archuleta County Court heard domestic violence cases on the first and third Thursday of every month.

system that ensures that bond conditions mirror the mandatory criminal restraining orders issued in domestic violence cases. A uniform system will enable the Deputy District Attorney to more effectively prosecute cases for violations of restraining orders and bond conditions. The Prosecutor also proposed a “no bond policy” to the judges. Under this policy, all domestic violence defendants would be held in jail until they can be advised in a court of record by a judge on appropriate restraining order and bond conditions. Subsequent to this site visit, local judges decided against implementing a “no bond policy.”

Probation. Substantial changes have occurred in the area of probation. Many of these changes, including the addition of specialized probation officers, can be attributed to a shift in the role and funding of probation at the State level. Locally, the number of domestic violence cases resulting in a conviction rose dramatically with fast track, creating an added burden on the District’s Probation Department. One of the issues addressed by the Arrest project was that of psychological evaluations. A second issue was specialized domestic violence probation supervision.

When this project began, the District did not have a methodical means to provide evaluations. Defendants could go to any number of treatment providers, where they were required to pay a fee for an evaluation. Problems were inherent, with treatment providers experiencing a conflict of interest and defense attorneys and defendants “shopping” to obtain a desired result. Arrest funds were used to hire an experienced evaluator who would provide consistent and systematic evaluations at no cost to the defendant. The evaluator would provide timely recommendations to the court regarding sentencing, bond conditions, and restraining orders.

The Probation Department has been undergoing a transition to become more responsive to victims’ rights over the last few years. Shortly after the creation of the District Attorney’s Domestic Violence Unit, the Probation Department created a specialized domestic violence team comprised of a probation officer and advocate.²¹ Victim advocates, who are responsible for informing victims of post-sentence proceedings and soliciting input regarding various conditions of probation, are a recent addition to the department. The Domestic Violence Probation Officer

²¹ The special probation unit is funded through a VAWA grant administered by the Colorado State Judicial Department.

supervises approximately 150 offenders. While the specialized probation officer could not engage in intensive supervision until he received additional training, an offender needing intensive supervision could be placed on that caseload at the Domestic Violence Probation Officer's request.

Legal Advocacy

The Arrest project includes funds for the partial funding of a civil attorney. Alternative Horizons is responsible for this component. In this rural county, civil legal assistance for domestic violence victims was minimal.²² Although Alternative Horizons had received grant funding for civil legal assistance since 1995, it was unable to keep up with high demand and was forced to use several different attorneys. Hiring for this position was not an easy task since the organization was unable to provide office space or support staff. In March 1999, Alternative Horizons finally secured the services of a part-time civil attorney. The attorney coordinates a pro bono program to provide legal representation for victims in protection order hearings²³, and provides civil legal services (divorce, custody, visitation) for battered women.

In addition to a civil attorney, Alternative Horizons has a court advocacy program funded through a state VAWA grant. While the Advocate works to contact female defendants through the pre-trial release coordinator at the jail and at the courthouse, the Advocate does not have systematic access to victims who are also defendants in dual arrest cases. Neither can the Advocate easily contact women defendants who may be self-defenders prosecuted under the fast track system. This is a source of contention between the non-profit community and the District Attorney's Office.

Project Performance

This project does not have a formal evaluator. However, the VPC Coordinator has collected surveys and statistics to help with the evaluation process. The statistics provided in the progress reports make a full assessment of project performance difficult for several reasons. First, data prior to 1996 has been noted as unreliable and/or unavailable. This is a result of discrepancies between the numbers compiled by the District Attorney's Office and those

²² Colorado Rural Legal Services, the primary legal assistance provider for low-income families, was mostly unresponsive to the needs of battered women.

collected by the VPC, the inability to track “no action” cases, and an outdated filing system prior to this grant.²⁴ Second, the data that is reported is inconsistent from one report to another. For instance, the Unit reports handling 579 cases from start to finish over the first 18 months of the grant period. Yet this figure is difficult to replicate since the actual number of cases handled for each prior progress report are not presented.²⁵ It is also unclear as to whether these figures include all cases referred to the District Attorney’s Office or only those cases filed by the Office. Third, the percentage of change as reported is erroneous and should be recalculated noting the actual change in number of cases.²⁶ Given these limitations, summary statements can be made regarding the specific project objectives.

The proposal outlined evaluation measures to be collected to assess project performance. Exhibit 2 lists project components and measures. The proposal identified several other objectives that are not included in the exhibit because they do not include specific measures.²⁷

²³ Priority is given to victims whose perpetrators have legal counsel.

²⁴ Local project participants have noted these discrepancies and have worked to eliminate inconsistencies. The quality of data continues to improve over time.

²⁵ The Unit reports cumulative totals but fails to record how many cases were handled for each time period covered in the progress report.

²⁶ For instance, in Progress Report #4, the author notes that 11 percent fewer cases have been dismissed since the inception of the Unit. This figure is calculated by subtracting 25 percent from 36 percent; which does not reflect true change. When the percentage change is calculated using the differential in the number of cases (44-25/122), there has been a 16 percent decrease in the number of cases dismissed.

²⁷ For example, an objective is to maintain a half-time La Plata County Court Magistrate to handle the fast track program. This objective is met through grant funds and no specific measures were proposed to document actual performance of the Magistrate.

Exhibit 2: Performance Measures for Project Components

Project Component	Performance Measure
<i>Specialized Prosecution Unit</i>	<ul style="list-style-type: none"> • At least 450 cases will be handled from start to finish by the Unit during the grant period. • Disposition will be reached within one business day in 40 percent of cases, and an additional 20 percent of cases within one month. • Advocacy services to all victims will be provided and documented. • Law enforcement officers at eight agencies will be trained.
<i>Probation Evaluation</i>	<ul style="list-style-type: none"> • About 450 offenders will be evaluated—to include recommendations regarding sentencing, treatment, bond conditions, and restraining orders—within seven business days.²⁸
<i>Legal Advocacy</i>	<ul style="list-style-type: none"> • Pro bono legal representation will be provided to 50 women at protection order hearings during the 18-month grant period. • Legal representation will be provided to 36 victims in divorce and custody cases during the 18-month grant period
<i>Stalking and Sexual Assault Offenders</i>	<ul style="list-style-type: none"> • At least four stalking cases will be prosecuted, or systemwide policies and procedures on stalking and repeat offenders will be developed. • Phone recording equipment will be loaned to 25 victims of stalking. • Five cases of sexual violence in intimate relationships will be prosecuted during the 18-month grant period.
<i>Case Tracking</i>	<ul style="list-style-type: none"> • Statistical reports will be provided to the District Attorney and other VPC members at least twice per year—including information on arrest rates, conviction and dismissal rates, recidivism rates, restraining order and bond condition violations, post-sentence compliance, and dual arrests. • Repeat offenders will be identified and tracked on the database.

Specialized Prosecution Unit

Prosecution goals, as outlined in the proposal, were specific. The unit was expected to handle 450 cases from start to finish during the first 18-month grant period. During that same time frame, the objective was to reach disposition in 40 percent of the cases within one business day, and an additional 20 percent of cases within one month. All domestic violence cases,

²⁸ This figure was later revised to reflect the number of cases sentenced, rather than number of cases handled by the special prosecutor.

including fast track, misdemeanors, and felonies, were to be handled by the domestic violence prosecutor and victim advocate.

Exhibit 3 shows the total number of cases handled by the District Attorney’s Office from 1995 through 1998. The new Unit, established in May 1997, accomplished its goal of handling at least 450 cases, with 579 cases handled by the Unit in the first 18 months of the grant period. Once again, some caution must be taken with these statistics. Exhibit 3 shows an increase in the number of cases over time, from 268 in 1995 to a high of 327 in 1998. Yet the number of cases where the defendant received a sentence was rather stable (199 in 1995 and 198 in 1998). As a percentage of the caseload, this data suggests that almost 75 percent of the cases in 1995 resulted in a sentence, compared to 61 percent in 1998. However, the accuracy of the data must be called into question, as statistics indicate that the number of dismissals actually declined, a fact that would be inconsistent with the data shown in Exhibit 3.

Exhibit 3: Total Number of Domestic Violence Cases Handled by the District Attorney’s Office and the Number of Cases Sentenced, 1995 to 1998

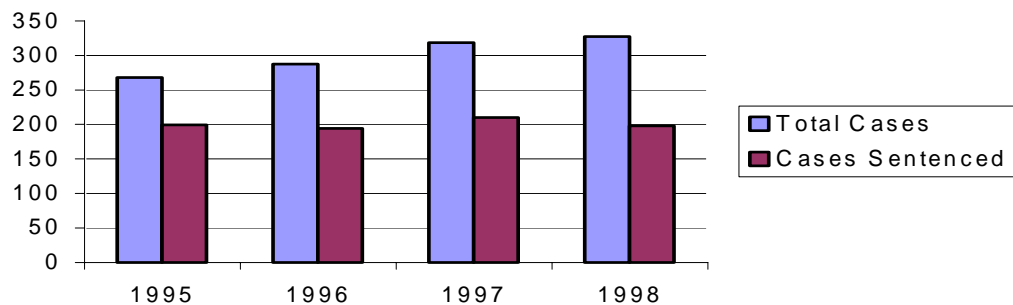
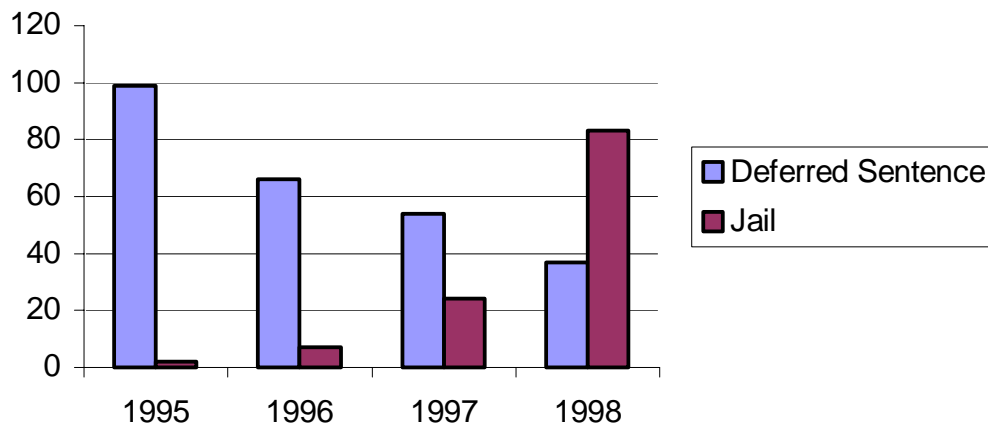


Exhibit 4 shows trends in sentencing over the course of this grant. In 1995, 99 cases were resolved through deferred sentencing, compared to just 37 cases in 1998. The rise in jail as a sentence increased dramatically over the same period of time—from 2 offenders in 1995 to 83 offenders in 1998. This data, if accurate, demonstrates a shift in the District Attorney’s Office to a more aggressive stance against domestic violence.

Exhibit 4: Number of Deferred and Jail Sentences, 1995 to 1998

In addition to these stated measures, one of the goals of the new unit, and perhaps the cornerstone of vertical prosecution, was successful prosecution in the absence of victim cooperation. By the end of 1998, the domestic violence prosecutor had tried ten cases since the Unit's inception, with convictions reached in eight of those cases. Six of the convictions occurred even after the victim recanted, and one case was tried without the victim present. Although the number of cases tried is rather small, it does demonstrate the diligence of the Unit in going forward with prosecution despite the problems inherent with recantation testimony.

A second measure of prosecution performance is the timeliness of case disposition. The proposal called for 40 percent of cases reaching a disposition within one business day, and an additional 20 percent of cases within one month. Prior to this grant and the implementation of fast track prosecution, a few cases had reached disposition within a month, although no numbers are available for this time period. For the most recent period for which a status report is available (January through June 1999), 44 percent of fast track cases reached disposition in one business day. An additional 22 percent of fast track cases reached disposition within one month. Numbers for cases that do not go through fast track prosecution were not available.

A third performance component of the specialized Domestic Violence Unit is the provision and documentation of advocacy services. The advocate is expected to solicit input

from the victim and provide information to all victims regarding each phase of prosecution, sentencing, and post-sentence follow-up. Documentation of services has improved as a result of the implementation of a standard ‘Victim Contact’ form. With the standardized form, in addition to the ‘Notice to Appear’, nearly all victims are receiving some advocacy assistance. In the last half of 1998, victims were contacted or their input was solicited in 103 of 104 cases. Statistics from earlier time periods were less favorable—mostly due to the lack of documentation. As the Arrest project has become routine, the District Attorney’s advocate has been in contact with nearly all victims.

A fourth assessment measure specifies that eight law enforcement agencies will receive domestic violence training. Specific objectives provided for 16 brief monthly trainings for law enforcement officers and two trainings for the bench. The Unit’s prosecutor and advocate, along with the VPC Coordinator and the Alternative Horizons’ director, are primarily responsible for training. The Unit exceeded training goals. As of June 30, 1998, a total of 22 law enforcement sessions had been provided, including 13 roll-call trainings. During this same time period, the magistrate handling domestic violence cases attended several training sessions. Integral to all training is the experience and expertise brought by the trainers. Local training staff have increased their level of expertise by participating in ‘Train the Trainers’ courses. In April 1998, 14 individuals from various criminal justice agencies throughout the District attended a weeklong ‘Train the Trainer’ course hosted by a state organization.²⁹

Probation Evaluation

The proposal indicated that the special prosecution unit would handle 450 domestic violence cases. Similarly, the Domestic Violence Evaluator in the Probation Department was assigned the evaluation of 450 offenders and would provide recommendations regarding sentencing, treatment, and restraining orders within seven business days. That objective was later revised to reflect the number of cases sentenced, rather than number of cases handled by the District Attorney’s Office. The Evaluator was added to the project in the continuation grant and implementation of this component is recent. For this reason, preliminary data is presented, with a greater emphasis on the changes brought to the program as a result of systematic evaluation.

²⁹ Ending Violence Against Women Team

From January 15 through May 30, 1999, the Domestic Violence Evaluator conducted 68 evaluations. In addition, 15 offenders were referred back to the courts for revocations of their probation following their failure to obtain an evaluation within the 30 days stipulated on their sentencing orders. Although these figures are somewhat low if the goal of 450 evaluations over an 18-month period is to be reached, they represent the initial start-up of the evaluation component and may not be indicative of future performance. Statistics regarding the timeliness of the evaluation were not available at the time of this site visit.

The addition of a Domestic Violence Evaluator has strengthened the quality and consistency of the District's overall Arrest project. Prior to creation of the Evaluator position, offenders paid treatment providers for an assessment. The treatment providers did not use a standard tool, and defendants were able to "shop" for providers who would give them favorable results. Under this Project, all defendants receive the same assessment tools. The evaluation, which utilizes the Spousal Assault Risk Assessment (SARA), includes the following procedures.

1. Interview – the Evaluator conducts a face-to-face interview with the offender. The interview, lasting 1½ to 2½ hours, is used to gather information on the defendant's mental health status and history, current and past patterns of psychoactive substance abuse, experiences in their family of origin, criminal history, a detailed review of their current and any past domestic violence arrests and incidents, work and education experiences, and current status of their relationship with the victim. At the conclusion of the interview, the Evaluator reviews the Terms and Conditions of their Probation and presents the offender with an instruction sheet that outlines treatment recommendations.
2. Victim Contact – the Evaluator attempts to contact the victim in order to review the offender's abusive and violent behavior, mental health concerns, level of psychoactive substance use, compliance with restraining orders and bond conditions. The Evaluator also inquires about the victim's needs and level of risk for future victimization.
3. Review of Discovery File – the Evaluator reviews the offender's discovery file as compiled by the Domestic Violence Unit. The files typically include police reports, and criminal history as indicated by CDAC and NCIC/CCIC record.
4. Collateral Sources – sources such as parole and probation officers, family members, and ex-spouses, may be contacted to provide relevant information regarding the offender.

The Evaluator not only provides a comprehensive evaluation of domestic violence offenders but also has been instrumental in developing a variety of treatment programs for varying types of batterers. Thus far, five different treatment programs are available: (1) Standard Domestic Violence Program; (2) Substance Abuse/Domestic Violence Program; (3) Intensive

Domestic Violence Program; (4) Women's Domestic Violence Program; and (5) Domestic Violence Diversion Program. Exhibit 5 on the following page outlines the role of probation evaluation and supervision in this process.

Legal Advocacy

The civil attorney hired under the second phase of this project was to provide pro bono representation for 50 women at protection order hearings, and to provide legal representation for 36 victims in divorce and custody cases during each 18-month grant period. Alternative Horizons is responsible for this component. The provision of legal services has been problematic, primarily due to difficulties hiring and retaining an attorney.

Alternative Horizons created a hiring committee to designate a civil attorney for this project. The committee had tentatively hired an attorney in November 1998, but the attorney turned down the position after initial acceptance. Unfortunately, this delayed the hiring of an attorney until March 1999. Meanwhile, Alternative Horizons' Court Advocate has been providing assistance with restraining orders. Pro bono attorneys are provided only in those hearings where the defendant is represented by counsel. From December 1998 through June 1999, a total of 25 restraining orders were requested (20 granted). The victims did not receive legal representation at this time.

The civil attorney opened 21 cases from the time of hire (March 1, 1999) through the end of June 1999. Only one of these cases had been successfully completed, with most others pending. These figures indicate that goals of legal representation in divorce and custody cases will be met over the course of this grant.

Exhibit 5: Evaluation and Probation Supervision in the Criminal Justice Process

Stalking and Sexual Assault Offenders

The original proposal's objective was to prosecute at least four stalking cases during the 18-month period, or to make detailed, substantive recommendations to the state domestic violence coalition and other relevant parties regarding changes needed in the Colorado stalking law in order to make prosecution possible. Another goal specified in the original proposal was to prosecute five cases of sexual violence in intimate relationships during the 18-month grant period. The Unit also planned to develop guidelines for the criminal justice response to repeat offenders.

As noted previously in this document, the District Attorney's Office did not have the opportunity to prosecute stalking or sexual assault cases in the context of domestic violence (with the exception of one felony stalking case). The Unit has turned its attention to the development of systemwide policies and procedures on the topic of stalking. A collaborative effort is ongoing to revise state statutes in the area of stalking. Since the number of stalking cases is minimal, this has impacted the goal of providing phone-recording equipment to 25 victims. The most recent progress report (January to June 1999) notes that a total of six recording devices have been loaned during this time period.

The absence of sexual assault, or marital rape, in domestic violence cases is a reflection both of victims unwillingness to report this type of crime and the lack of law enforcement training to include an inquiry of sexual assault. The prosecution unit and the VPC are working together to train law enforcement on this sensitive topic. In March 1999, several project participants and law enforcement representatives attended a training session on marital rape in the context of domestic violence. Prosecution is contingent on victim reporting and law enforcement training.

The problem of repeat offenders is being addressed through stricter sentencing and probation supervision, although a systemwide policy has not yet been created. The VPC's Policy Committee is working to develop a 'Repeat Offender Policy.' In practice, the domestic violence prosecutor obtains jail sentences in repeat offenses, and the probation officer personally supervises repeat offenders in a more aggressive manner. The District's primary treatment provider added a combined domestic violence/substance abuse program and an intensive

treatment program to their curriculum, which services a large number of repeat offenders. It is expected a definitive policy on repeat offenders will be established during the second phase of the grant period.

Case Tracking

The VPC Coordinator was responsible for data development, case tracking, and statistical documentation. One goal of the project as it relates to technology was the provision of basic statistical reports at least twice per year. Information would include arrest rates, conviction and dismissal rates, recidivism rates, restraining order and bond condition violations, post-sentence compliance, and dual arrests. A second goal was to build an element in the database that would allow users to identify and track repeat offenders.

The case tracking component of this project is continually under revision. As the project develops, new fields are added to the database. For instance, a field was recently added to track same sex offenses, particularly with respect to female arrests. In addition, the Probation Department has started providing detailed statistics on domestic violence probationers. The case tracking system has improved the quality of the data and has permitted local project participants to analyze trends and document various concerns.

The case tracking system is a major improvement. The system is now compatible with the District Attorney's database and is a rich source of information. The case tracking system includes the following major categories. Examples of included fields are also provided.

- Law Enforcement Incident report – suspect, victim, relationship information
- District Attorney Report – incident description, injury description, photos taken, prior convictions, sentence/disposition data, victim contact information, bond modification
- Probation Report – post-sentence information, date revocation filed, jail days.

The database is used to compile statistics on a regular basis. The Coordinator regularly reports data on the number of repeat offenders and the charges against this subgroup of people, number of victim statements prepared, number of sentenced cases, number of offenders supervised by type of supervision, and number of probation revocations. The majority of these figures can be compiled by law enforcement agency and over time (1996 to 1999).

Recommendations and Conclusions

This project is extremely ambitious. It directly involves staff from the District Attorney's Office, the Probation Department, Alternative Horizons, and the Violence Prevention Coalition. The project also addresses law enforcement training and incident response. The fact that this project takes place in a primarily rural area with limited resources and serious domestic violence problems is a reflection of the high level of community commitment to ending violence within families. This final section of the document identifies eight recommendations and offers concluding remarks.

Recommendations

This project has impacted the arrest, prosecution, and conviction of domestic violence offenders in the Sixth Judicial District. While the Arrest Project has improved many aspects of the criminal justice system, there are some gaps and local considerations that affect project performance. In particular, the implementation of fast track prosecution has become the subject of impassioned arguments from community and criminal justice personnel. Several of the recommendations below reflect ongoing discussions of the merits of fast track.

1. Reconsider fast track.
2. Eliminate dual arrests from fast track prosecution.
3. Provide fast track defendants with written assurances.
4. Strengthen primary aggressor analysis training.
5. Attempt to bring the La Plata County Sheriff's Department into the project.
6. Specify the role of the District Attorney's Victim Advocate and outline varying roles of community and system advocates.
7. Increase communication and collaboration across agencies and organizations.
8. Initiate intensive supervision of probationers.

Fast Track Prosecution. As discussed earlier, fast track prosecution has distinct advantages and disadvantages. The tendency to rely on fast track prosecution requires law enforcement and prosecution to balance defendant's rights with offender accountability. Some of the advantages pointed out by local participants include an increase in guilty pleas and conviction rates, a reduction in court time, and speedier offender treatment. The concerns raised primarily revolve around the notion that innocent individuals and self-defending victims are often "caught" in the system and accept guilty pleas to simply conclude the case. While fast track is controversial and does not receive full community support, vertical prosecution and the performance of the special domestic violence prosecutor has been a positive change in the eyes

of both community and agency participants. Vertical prosecution and advocacy should be maintained, while fast track should be openly discussed and debated. In addition, La Plata County is a relatively small jurisdiction where the low volume of cases calls into question the efficiency of fast track prosecution. The District Attorney's Office may find the designation of two to three days per week in which domestic violence cases are heard to be more conducive to the demands of the special prosecutor. Cases can continue to be heard by the designated magistrate without fast track prosecution. Regardless, this project could benefit from an open discussion of the merits and drawbacks of fast track prosecution.

Dual Arrests in Fast Track Prosecution. While fast track itself is controversial, the real area of contention arises with dual arrests, and to a lesser degree, female arrests. Alternative Horizons works to make contact with female defendants, but they do not always have easy access to the defendants prior to the arraignment hearing. Previously, a jail release coordinator in the La Plata County Sheriff's Department assisted Alternative Horizons' staff with personal contact with female detainees. The Sheriff's Department terminated this position, and with the implementation of fast track, this has resulted in a relatively large proportion of women convicted without any advice from outside organizations or attorneys. This situation has resulted in discord between the District Attorney's Office and the non-profit organizations. If local participants choose to continue fast track prosecution, dual arrests should be excluded from fast track. The elimination of dual arrests from fast track would enable the prosecutor to sort out the primary aggressor while providing women with community support services.

Written Assurances. There are two contentious issues in fast track prosecution. First, the court is under no obligation to provide defendants with written assurances that the prosecutor will not seek a jail term. The District Attorney should consider adding a written assurance to guarantee that the procedural requirements of fast track are being followed. Second, defendants who do accept pleas do not seem fully aware of the cost and duration of their required attendance at the batterer intervention program. Both issues can be clarified with written assurances from the District Attorney's Office. Regardless, project participants eventually may be required to undertake a full legal analysis of the appropriateness of jail sentences upon probation violations.

Primary Aggressor Analysis Training. Local statistics indicate an increase in the number of dual arrests and female arrests over the first part of 1999. This project has conducted

training on primary aggressor analysis; however, due to turnover within law enforcement agencies and the inclusion of dual arrests in fast track prosecution (which acts as an incentive to dual arrests), periodic training should be conducted for all local law enforcement. As part of this training, project leaders may want to distribute pocket checklist cards that will help officers with the identification of the primary aggressor.

La Plata County Sheriff's Department. A missing element in the Sixth District is full cooperation and commitment from the La Plata County Sheriff's Department. The Sheriff's Department is a key enforcement agency, yet they seldom participate in meetings of the of the Violence Prevention Coalition. In addition to making a significant number of domestic violence arrests, the Sheriff's Department has charge over the jail and could assist the non-profit service providers with greater access to female defendants. Realistically, it is always difficult to gain full support of all parties, and the Sheriff's Department may choose not to cooperate. The Violence Prevention Coalition has considerable credibility and should continue to make personal contacts with Sheriff's representatives, which over the long run may encourage greater participation.

Advocacy Roles. The District Attorney's Office has struggled with turnover in the Victim Advocate position, losing its most experienced advocates. Interagency communication, in particular, has been impacted by the turnover. The varying roles of system and non-profit advocates have created some difficulties with project implementation. Tension over the roles of advocates is not unique to the Sixth District. Rather, advocates within prosecutor's offices are generally expected to support prosecution efforts, while non-profit community advocates may oppose prosecution efforts in certain instances. These differences in mission and/or philosophy can be overcome by a clear understanding from all participants that the roles and views of advocates will vary. Furthermore, the various agencies and organizations should acknowledge that some level of disagreement over advocacy issues is bound to arise.

Collaboration. The Southwest Colorado Domestic Violence Project involves several criminal justice agencies, a major non-profit victim service organization, and a local domestic violence coalition. Collaboration between all partners is an ongoing process. This project benefits by the fact that numerous agencies and organizations have a strong desire to fully participate in meeting the domestic violence objectives, and that the VPC is a long-standing

organization that has been a vehicle for systemwide collaboration. At the same time, the District Attorney's Office is the lead agency and responsible for overall financial administration, implementation, and performance of this particular grant. Currently, a true partnership does not exist. Yet this community has all the potential to create a lasting collaboration. Some specific concerns arose during this site visit that if addressed, could increase the level of collaboration. First, the District Attorney and senior-level staff seldom attend meetings of the Violence Prevention Coalition. Their absence is noted and regrettable. Second, there are few formal meetings between major project participants. More specifically, the District Attorney's Office seldom solicits their partners' input on project implementation or planning. Consequently, there is not a full sense of partnership among all entities. Third, some of the project activities, such as coordinating training sessions, can be delegated. The domestic violence prosecutor has an enormous load of responsibilities. Yet the Violence Prevention Coordinator, or a designated project coordinator, could assume some of the administrative tasks. Delegation of responsibilities is likely to increase each partner's sense of commitment to the project.

Intensive Supervision. A strong element of the project is probation evaluation and supervision. The final recommendation is that the Probation Department establish an intensive supervision program that includes unannounced field contacts. Currently, intensive supervision cannot be undertaken until the specialized probation officer receives Level Two training. This is likely to occur in the future and, given the progressive mission of the Probation Department, a more active role is anticipated.

Conclusions

The Southwest Colorado Domestic Violence Project is a comprehensive approach to domestic violence, with an emphasis on prosecution. Vertical prosecution, combined with the fast track program, has led to an increase in convictions. The incorporation of a probation element has resulted in consistent evaluations and an increase in supervision of domestic violence probationers. Legal advocacy has provided valuable civil legal assistance to many battered women in the community. In general, this project has made a tremendous impact in the areas of prosecution, probation, and advocacy.

A major element of the Sixth Judicial District's project is fast track prosecution. While this arrangement has increased convictions and apparently the number of guilty pleas, it has also

raised concerns from the greater domestic violence community. In particular, the prosecution of dual arrests and female offenders who may be self-defending has become an issue of controversy. While the community is pleased with vertical prosecution and the increase in probationer supervision, a closer examination of the future of fast track prosecution may be a worthy exercise. Collaboration between agencies and non-profit organizations could also be improved.

In conclusion, there is no doubt that the District Attorney's Office has taken a tough stand on domestic violence. The Probation Department continues to make inroads in the areas of evaluation, supervision, and advocacy. Alternative Horizons provides crucial advocacy and legal services to battered women. The Violence Prevention Coalition is a terrific local resource that gives a voice to community views. The project has great potential if some of the current controversies can be bridged.

Recent Developments

Since the time of this site visit, three major developments have occurred to address the recommendations noted above. First, dual arrests have been removed from the fast track system. The District Attorney's Office now handles dual arrests in the traditional judicial manner. This change will allow the prosecutor time to sort out the events and will enable the non-profit service provider to better advocate for women arrested in this context. A second development is in the area of intensive supervision. The Domestic Violence Probation Officer has received the required training and is now certified to provide intensive supervision for probationers. Third, the administrative responsibilities have been passed to the Chief Probation Officer. This development will relieve some of the burden placed on the domestic violence prosecutor. In addition, the level of communication and collaboration is likely to increase since the Chief Probation Officer is not as closely involved as other project agencies in the differences of opinion regarding fast track.

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